

PXO-DD

<p style="text-align: right;">Page 1</p> <p>1 UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF ALABAMA 3 SOUTHERN DIVISION</p> <p>4 GREATER BIRMINGHAM 5 MINISTRIES, et al.,</p> <p>6 Plaintiffs,</p> <p>7 V. C.A. No. 2:15-cv-02193-LSC</p> <p>8 STATE OF ALABAMA, et al.,</p> <p>9 Defendants.</p> <p>10</p> <p>11 * * * * *</p> <p>12</p> <p>13 THE VIDEO DEPOSITION OF SENATOR HANK SANDERS</p> <p>14 was taken pursuant to stipulation and</p> <p>15 agreement before Shannon P. Yost, Certified</p> <p>16 Court Reporter and Commissioner for the State</p> <p>17 of Alabama at Large, at the law offices of</p> <p>18 Chestnut, Sanders, Sanders & Pettway, One</p> <p>19 Union Street, Selma, Alabama, on the 26th day</p> <p>20 of January, 2017, commencing at 9:41 a.m.,</p> <p>21 Central.</p> <p>22</p> <p>23 * * * * *</p>	<p style="text-align: right;">Page 3</p> <p>1 EXHIBIT INDEX</p> <p>2 Plaintiff's Exhibits Page</p> <p>3 Exhibit 1 6/30/96 Westlaw Article 21</p> <p>4 Exhibit 2 7/26/96 Westlaw Article 37</p> <p>5 Exhibit 3 3/11/98 Westlaw Article 52</p> <p>6 Exhibit 4 3/12/98 Westlaw Article 57</p> <p>7 Exhibit 5 DEF_56537-56541 132</p> <p>8 Exhibit 6 DEF_61298-61301 135</p> <p>9 Exhibit 7 DEF_54842-54844 141</p> <p>10 Exhibit 8 10/6/15 Westlaw Article 150</p> <p>11 Exhibit 9 1/26/17 Alabama Political 214</p> <p>12 Reporter Article</p> <p>13 Exhibit 10 1/26/17 WSFA Article 335</p> <p>14 Exhibit 11 Free Photo ID Locations 343</p> <p>15 Exhibit 12 Application for Free ID 345</p> <p>16 Defendant's Exhibits Page</p> <p>17 Exhibit 1 DEF_219738-219739 196</p> <p>18 Exhibit 2 DEF_219717 206</p> <p>19 Exhibit 3 DEF_219713-219714 206</p> <p>20 Exhibit 4 1/24/17 Dothan Eagle Article 208</p> <p>21 Exhibit 5 DEF_219733-219736 210</p> <p>22 Exhibit 6 DEF_219737 210</p> <p>23 Exhibit 7 Capital City Free Press 212</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 Deuel Ross, Esquire 4 Natasha C. Merle, Esquire 5 Elizabeth A. Reese, Esquire 6 NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. 7 40 Rector Street, 5th Floor 8 New York, New York 10006</p> <p>9 FOR THE DEFENDANTS:</p> <p>10 Misty S. Fairbanks Messick, Esquire 11 STATE OF ALABAMA OFFICE OF THE ATTORNEY 12 GENERAL 13 501 Washington Avenue 14 Montgomery, Alabama 36130</p> <p>15 John Neiman, Esquire 16 MAYNARD, COOPER & GALE 17 1901 6th Avenue North, Suite 2400 18 Birmingham, Alabama 35203</p> <p>19 ALSO PRESENT:</p> <p>20 John Badgley, Videographer 21 Jean Brown</p> <p>22 INDEX</p> <p>23 Examination by Mr. Ross * * * * 8, 327</p> <p>Examination by Ms. Messick * 175, 354</p> <p>Examination by Mr. NEIMAN * * * * 297</p>	<p style="text-align: right;">Page 4</p> <p>1 Exhibit 8 DEF 6949-6950 213</p> <p>2 Exhibit 9 DEF 6944-6948 214</p> <p>3 Exhibit 10 Voting History Report 216</p> <p>4 Exhibit 11 DEF_219719-219721 219</p> <p>5 Exhibit 12 DEF_219729-219730 220</p> <p>6 Exhibit 13 DEF_219927-219928 221</p> <p>7 Exhibit 14 DEF_219989-219991 221</p> <p>8 Exhibit 15 Selma Times Journal Article 223</p> <p>9 Exhibit 16 DEF 137-139 233</p> <p>10 Exhibit 17 DEF_219704-219705 238</p> <p>11 Exhibit 18 DEF_219779-219780 239</p> <p>12 Exhibit 19 Ala.Code 1975 SS 17-9-30 246</p> <p>13 Exhibit 20 DEF_23386-23387 273</p> <p>14 Exhibit 21 SB172 278</p> <p>15 Exhibit 22 SB23 279</p> <p>16 Exhibit 23 2011 Alabama Senate 284</p> <p>17 Exhibit 24 HB19 Vote 1063 Roll 285</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

<p style="text-align: right;">Page 5</p> <p>1 STIPULATIONS</p> <p>2</p> <p>3 It is hereby stipulated and agreed by and</p> <p>4 between counsel representing the parties that</p> <p>5 the video deposition of</p> <p>6 SENATOR HANK SANDERS</p> <p>7 is taken pursuant to the Federal Rules of</p> <p>8 Civil Procedure and that said video deposition</p> <p>9 may be taken before Shannon P. Yost, Certified</p> <p>10 Shorthand Reporter, and Commissioner for the</p> <p>11 State of Alabama at Large, without the</p> <p>12 formality of a commission; that objections to</p> <p>13 questions other than objections as to the form</p> <p>14 of the question need not be made at this time</p> <p>15 but may be reserved for a ruling at such time</p> <p>16 as the said video deposition may be offered in</p> <p>17 evidence or used for any other purpose, by</p> <p>18 either party, provided for by the Statute.</p> <p>19 It is further stipulated and agreed by</p> <p>20 and between counsel representing the parties</p> <p>21 in this case that the filing of said video</p> <p>22 deposition is hereby waived and that said</p> <p>23 video deposition may be introduced at the</p>	<p style="text-align: right;">Page 7</p> <p>1 VIDEOGRAPHER: This begins</p> <p>2</p> <p>3 disk one in the deposition of</p> <p>4 Senator Hank Sanders in the</p> <p>5 matter of Greater Birmingham</p> <p>6 Ministries, et al., versus</p> <p>7 State of Alabama, Case Number</p> <p>8 2:15-CV-2193-LSC, in the United</p> <p>9 States District Court for the</p> <p>10 Northern District of Alabama,</p> <p>11 Southern Division.</p> <p>12 We're on the record at</p> <p>13 9:41, 26th day of January,</p> <p>14 2017. This deposition is</p> <p>15 taking place in Selma, Alabama.</p> <p>16 My name is John Badgley</p> <p>17 representing Freedom Court</p> <p>18 Reporting.</p> <p>19 Would counsel identify</p> <p>20 yourself and state whom you</p> <p>21 represent.</p> <p>22 MR. ROSS: My name is</p> <p>23 Deule Ross. I represent the</p> <p> plaintiffs in this case.</p>
<p style="text-align: right;">Page 6</p> <p>1 trial of this case or used in any other manner</p> <p>2 by either party hereto provided for by the</p> <p>3 Statute, regardless of the waiving of the</p> <p>4 filing of the same.</p> <p>5 It is further stipulated and agreed by</p> <p>6 and between the parties hereto and the witness</p> <p>7 that the signature of the witness to this</p> <p>8 video deposition is hereby waived.</p> <p>9</p> <p>10 *****</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">Page 8</p> <p>1 MS. MERLE: Natasha Merle</p> <p>2 from the NAACP Legal Defense</p> <p>3 Fund for the plaintiffs as</p> <p>4 well.</p> <p>5 MS. REESE: Elizabeth</p> <p>6 Reese, also from the NAACP</p> <p>7 Legal Defense Fund for the</p> <p>8 plaintiffs.</p> <p>9 MS. MESSICK: Misty S.</p> <p>10 Fairbanks Messick from the</p> <p>11 Alabama Attorney General's</p> <p>12 Office representing all</p> <p>13 defendants except the governor.</p> <p>14 MR. SINCLAIR: Winfield</p> <p>15 Sinclair representing all</p> <p>16 defendants except the governor.</p> <p>17 MS. BROWN: Jean Brown.</p> <p>18 I'm here as a representative of</p> <p>19 the Secretary of State's</p> <p>20 Office.</p> <p>21 MR. NEIMAN: I am John</p> <p>22 Neiman. I represent the</p> <p>23 defendant governor.</p>

<p style="text-align: right;">Page 9</p> <p>1 VIDEOGRAPHER: Will the 2 court reporter please swear in 3 the witness. 4 REPORTER: Usual 5 stipulations under the federal 6 rules? 7 MR. NEIMAN: Yes. 8 MS. MESSICK: Yes. 9 MR. ROSS: Yes. 10 11 SENATOR HANK SANDERS 12 The witness, after having first been duly 13 sworn to speak the truth, the whole truth, and 14 nothing but the truth, testified as follows: 15 16 EXAMINATION 17 BY MR. ROSS: 18 Q Good morning, Senator Sanders. 19 A Good morning. 20 Q My name is Deuel Ross as I just said. I 21 am the attorney representing the 22 plaintiffs. The other individuals in the 23 courtroom have already -- or the room</p>	<p style="text-align: right;">Page 11</p> <p>1 course of the deposition I'm going to be 2 asking you questions. If you can just 3 please answer yes or no and to the best 4 of your ability. You know, please don't 5 nod or shake your head or anything like 6 that. Even us lawyers forget sometimes. 7 It will allow the court reporter to write 8 down everything you say. 9 If you need me to rephrase my 10 question or to ask it again, just please 11 let me know. My goal is not to trick 12 you. It's just to get answers to the 13 questions. 14 Is there any reason why you are 15 unable to testify today, Senator? 16 A No. 17 Q Not on any medication or anything like 18 that that would affect your testimony? 19 A No. 20 Q Okay. Are you represented by counsel 21 here today? 22 A No. 23 Q Okay. Have you been deposed in other</p>
<p style="text-align: right;">Page 10</p> <p>1 have already identified themselves. 2 Can you please state and spell your 3 full name for the record? 4 A My full name is Henry Sanders, H-E-N-R-Y 5 S-A-N-D-E-R-S, but nobody knows me by 6 Henry except my father. My mother even 7 calls me Hank. 8 Q Okay. Thank you, Senator. And you're an 9 attorney, is that correct, Senator 10 Sanders? 11 A I am. 12 Q And how long have you been practicing? 13 A Forty-six years. 14 Q Okay. And so you're familiar with 15 testifying in a deposition and that 16 you're under oath; correct? 17 A I'm more familiar with taking depositions 18 than being deposed. 19 Q Exactly. So, Senator Sanders, I'll just 20 remind you a few ground rules. I know 21 that you already know them, but, you 22 know, if you need a break at any time, 23 please just let us know. During the</p>	<p style="text-align: right;">Page 12</p> <p>1 cases before? 2 A Yes. 3 Q Okay. Do you recall what those cases 4 were? 5 A I only recall being deposed once and that 6 was in a case after my law partner died. 7 Some family members filed some litigation 8 against the firm. 9 Q Do you recall any -- any depositions 10 about voting cases or anything like that? 11 A I don't recall any. 12 Q Okay. Senator Sanders, when did you 13 become a senator? 14 A In 19 -- November 1983. 15 Q Okay. And did you hold any public office 16 before that? 17 A No. 18 Q Okay. When you were first elected to the 19 Alabama State Senate, what district did 20 you represent? 21 A 23. 22 Q Okay. What area does that district 23 23 include?</p>

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1 A At that time, when I was first elected,
2 it included Dallas County, Perry County,
3 Hale County, Green County, Sumter County,
4 Choctaw County, Marengo County, and
5 Lowndes and Wilcox, I think.
6 Q Okay. And those counties, are they a
7 part of what's known -- well, do you know
8 what the black belt is in Alabama?
9 A Yes, I do.
10 Q Are those -- what is the black belt?
11 A The black belt is a group of counties
12 that stretch across the middle of Alabama
13 and they're called the black belt because
14 the soil was black. However, many people
15 identify as it -- as black belt because
16 it's majority black. Cotton was a very
17 powerful factor here and so enslaved
18 people were out -- outnumber other
19 people.
20 Q So you're saying the reason why the black
21 belt is majority black is because of --
22 African-Americans were brought here as
23 slaves in the antebellum period?

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1 A Yes.
2 Q Okay. And do you still represent
3 district 23?
4 A I still represent district 23, but it's a
5 different configuration.
6 Q Okay. And what's the configuration now?
7 A Okay. It's Dallas, Perry, part of
8 Marengo, all of Wilcox, all of Lowndes,
9 all of Butler, part of Conecuh, part of
10 Monroe, and part of Clarke.
11 Q And is that still largely the black belt
12 region?
13 A Yes. There's -- all except two of those
14 would generally be considered black belt.
15 Q Okay. And is it a majority black
16 district that you represent?
17 A It is.
18 Q Okay. And when you were first elected in
19 1983, was it a majority black district?
20 A It was.
21 Q Okay. And -- okay. Prior to your
22 election in 1983, Senator, did Senate
23 district 23 ever have a black senator?

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1 A No.
2 Q Okay. Do you know why not?
3 A Yes.
4 Q Okay. Can you explain to us why that is?
5 A My law partner, J.L. Chestnut, who is now
6 deceased, ran for Senate district 23 on
7 two occasions and he was unable to -- to
8 be elected and it -- it -- it had -- it
9 may have had a -- a slight majority of
10 African-Americans but it didn't have a
11 majority voting -- a majority
12 African-American voting population, as I
13 recall. I think it was majority
14 African-American, majority black. And in
15 1983, the district was reconfigured
16 and -- and -- and I was elected.
17 Q Okay. Do you remember why the district
18 was reconfigured in 1983?
19 A Yes. The -- a district -- a
20 redistricting plan was passed, I think,
21 in 1982 or maybe 1981, but I think it
22 might have been 1981 and it was
23 litigated. And that district was set

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1 aside in 19 -- sometime in 1982 or '83
2 and the federal district court required a
3 new election.
4 Q Okay. And when you mention litigation,
5 was that litigation under the Voting
6 Rights Act?
7 A It was.
8 Q Okay. Do you know what the Voting Rights
9 Act is, Senator?
10 A I do.
11 Q Can you explain to us what that is.
12 A The 1965 Voting Rights Act is legislation
13 that essentially gave African-Americans
14 and some additional people the right to
15 vote. It has several major components
16 and the two most critical ones were
17 section 2 and section 5. And it
18 protected the -- the right of
19 African-Americans to vote.
20 Q Okay. And, Senator, you mentioned
21 section 5 of the Voting Rights Act. Do
22 you recall what that section required?
23 A Yes. It required preclearance of voting

<p style="text-align: right;">Page 17</p> <p>1 changes, of voting laws, voting 2 regulations, voting rules, voting 3 procedures and -- yes. That's right. 4 Q Okay. And did it require preclearance 5 for every state or only particular 6 states? 7 A No. It required preclearance for certain 8 states that it in effect had a history of 9 discriminating against African-Americans 10 and the right to vote. 11 Q Was Alabama one of those covered states? 12 A Yes. 13 Q Okay. Do you know why Alabama was a 14 covered state? 15 A It was a covered state because 16 African-Americans were denied the right 17 to vote up until 1965. I was a grown 18 person and in college and I could not 19 vote. 20 Q Do you remember why you couldn't vote 21 prior to the passage of the Voting Rights 22 Act? 23 A They -- they simply wouldn't --</p>	<p style="text-align: right;">Page 19</p> <p>1 education budget for Alabama for 16 2 years. 3 Q For 16 years. So from -- from about -- 4 when did you stop being -- 5 A From probably about '95 to -- to November 6 of 2010. 7 Q Okay. And why did you stop being the 8 chair of the finance committee in 2010? 9 A Republicans elected a majority in the 10 Alabama Senate in November of 2010. 11 Q Okay. Are you a Democrat, Senator? 12 A I am. 13 Q Okay. And is it correct that prior to 14 2010 the Democrats controlled the state 15 legislature? 16 A Yes. 17 Q Okay. Do you know if any point prior to 18 2010 Republicans controlled the -- the 19 last time the Republicans controlled the 20 legislature? 21 A No. It -- it -- if it -- no, I don't. 22 It may have been -- it might have been 23 possible in the late 1860s or early</p>
<p style="text-align: right;">Page 18</p> <p>1 wouldn't -- wouldn't allow us to register 2 to vote. 3 Q And by "us," you mean African-Americans? 4 A African-Americans, yeah. 5 Q Okay. After 1965, was there other -- did 6 racial discrimination in voting continue 7 in Alabama? 8 A Yes. It -- it continued. Well, yes, it 9 continued. 10 Q Okay. And I may ask you about some 11 examples. Have you -- later on. But 12 have you ever litigated under the Voting 13 Rights Act, any cases, that you recall? 14 A I've been part of some litigation under 15 the Voting Rights Act, yes. 16 Q Okay. Okay. Stepping back a little bit, 17 Senator. So you've been a senator for -- 18 since 1983. Did you hold any leadership 19 positions in the Senate in all that time? 20 A Yes, I did. 21 Q Okay. What positions did you hold? 22 A I was chair of the finance and taxation 23 education committee, which handled the</p>	<p style="text-align: right;">Page 20</p> <p>1 1870s, but I don't know of anything 2 beyond that. 3 Q Okay. Senator, are you on any committees 4 now? 5 A Yes. 6 Q What committees are you on? 7 A I'm on the finance and taxation 8 education. I'm on judiciary. I'm on 9 education. I'm on -- I can't pull up the 10 name now, but it's the case with -- the 11 deal with utilities and those kinds of 12 things. 13 Q Okay. So, Senator, you've been in office 14 now for approximately 33 years. Is it 15 correct -- is it fair to say that you're 16 familiar with the normal procedures of 17 the Senate in passing legislation or 18 sending things through a committee? 19 A Yes. 20 Q Okay. I'll move on. 21 Senator, do you -- you know that 22 this case that you're testifying about 23 today is about voter ID; correct?</p>

<p style="text-align: right;">Page 21</p> <p>1 A Yes.</p> <p>2 Q Do you recall when Alabama legislators</p> <p>3 started talking about the possibility of</p> <p>4 passing a voter identification bill?</p> <p>5 A Yes. I -- I don't recall the year, but</p> <p>6 it was a number of years before 2010.</p> <p>7 Q Okay.</p> <p>8 A And we actually passed a voter</p> <p>9 identification bill.</p> <p>10 Q Okay. Do you remember talk about voter</p> <p>11 identification bills in the approximately</p> <p>12 1996, 1998?</p> <p>13 A I don't recall.</p> <p>14 Q Okay.</p> <p>15 A 1996 or 1998.</p> <p>16 Q Senator, I'm going to hand you what I</p> <p>17 will mark as plaintiff's first exhibit.</p> <p>18 Let's see if this --</p> <p>19 (Plaintiff's Exhibit 1 was</p> <p>20 marked for</p> <p>21 identification.)</p> <p>22 A My memory is refreshed.</p> <p>23 Q Okay. So this refreshes your</p>	<p style="text-align: right;">Page 23</p> <p>1 you as saying that: "Governor James is</p> <p>2 trying to create an image that there's a</p> <p>3 lot of fraud out there." Is that right?</p> <p>4 A Yes.</p> <p>5 Q Do you recall how he was trying to create</p> <p>6 that image at all reading this article?</p> <p>7 Do you remember?</p> <p>8 A Well, I don't necessarily recall about</p> <p>9 him.</p> <p>10 Q Uh-huh.</p> <p>11 A But -- but I remember it had started in</p> <p>12 1986.</p> <p>13 Q Uh-huh.</p> <p>14 A And not by Governor James. Give me a</p> <p>15 moment just to read it.</p> <p>16 Q Okay.</p> <p>17 A Because I just looked at it.</p> <p>18 Q I'll give you a few moments, Senator.</p> <p>19 (At which time, the</p> <p>20 witness reviews the</p> <p>21 exhibit.)</p> <p>22 A Okay.</p> <p>23 Q Okay. Thank you, Senator. So you</p>
<p style="text-align: right;">Page 22</p> <p>1 recollection, Senator?</p> <p>2 A It does.</p> <p>3 Q Okay. Senator, do you see yourself</p> <p>4 quoted in this article?</p> <p>5 A I do.</p> <p>6 Q Okay. And I'll represent that this</p> <p>7 article as discussed is from June 30th,</p> <p>8 1996, from the "Mobile Register." It's a</p> <p>9 news article pulled off of Westlaw. And</p> <p>10 it mentions -- it has some quotes from</p> <p>11 you about a voter ID bill that's being</p> <p>12 considered in a special session being</p> <p>13 called by Governor Fob James.</p> <p>14 Who is Governor Fob James?</p> <p>15 A Governor Fob James was the governor of</p> <p>16 Alabama from 19 -- 1994 -- well, really</p> <p>17 1995 until 2000.</p> <p>18 Q Okay. And was he a Democrat or a</p> <p>19 Republican?</p> <p>20 A He was a Republican.</p> <p>21 Q Okay. And it says here that he was</p> <p>22 calling a special session to deal with</p> <p>23 voter ID, as I mentioned. And it quotes</p>	<p style="text-align: right;">Page 24</p> <p>1 mentioned that there was an effort after</p> <p>2 19 -- or since about the 1980s, 1986, to</p> <p>3 create an image of voter fraud. And I</p> <p>4 may come back with some follow-up</p> <p>5 questions about that. But let's move</p> <p>6 onto your other quote. You said -- you</p> <p>7 mentioned in this -- in this news article</p> <p>8 that the requirement to show</p> <p>9 identification would intimidate poor and</p> <p>10 elderly voters?</p> <p>11 A Yes.</p> <p>12 Q Okay. Do you recall why you felt that</p> <p>13 way?</p> <p>14 A Well, yes, I do. I -- I was in the end</p> <p>15 of the Selma Montgomery march and I had</p> <p>16 thought when Dr. King said how long and</p> <p>17 not long, I thought that voting rights</p> <p>18 would have been fully implemented</p> <p>19 immediately. I came -- I was in</p> <p>20 Talladega College. I came down to</p> <p>21 Lowndes County in 1966 and spent time</p> <p>22 helping to try to get African-Americans</p> <p>23 mobilized to vote and the county was, I</p>

<p style="text-align: right;">Page 25</p> <p>1 don't know, 70-something percent</p> <p>2 African-American. We didn't win a single</p> <p>3 office in 1966.</p> <p>4 So -- and I moved back here in 19 --</p> <p>5 moved here in 1971. I'm originally from</p> <p>6 Baldwin County. And I had seen people</p> <p>7 over and over. Before I ran for the</p> <p>8 Senate myself, I chaired a number of</p> <p>9 voter registration committees. I chaired</p> <p>10 some voter registration efforts. When my</p> <p>11 law partner ran for the Senate, I was his</p> <p>12 campaign chair. So I had seen over and</p> <p>13 over how people were still afraid. We</p> <p>14 had generations of -- of intimidation,</p> <p>15 not just -- not just denial of the right</p> <p>16 to vote but intimidation. So I had</p> <p>17 experienced that first overhand.</p> <p>18 And I had seen how around election</p> <p>19 time the rumors would start flying that</p> <p>20 if you were on food stamps, you were</p> <p>21 going to lose them or if you were on</p> <p>22 welfare, you were going to lose it. And</p> <p>23 I would see how that would impact voting</p>	<p style="text-align: right;">Page 27</p> <p>1 A Yes.</p> <p>2 Q Okay.</p> <p>3 A Or at least trying to get the right to</p> <p>4 vote.</p> <p>5 Q Okay. Senator, if you want to turn to</p> <p>6 the second page of this article. If you</p> <p>7 look at the top, there's a -- starting in</p> <p>8 the second paragraph that says "but</p> <p>9 James." Can you just read that paragraph</p> <p>10 to yourself -- I guess the -- those first</p> <p>11 three paragraphs, actually.</p> <p>12 (At which time, the</p> <p>13 witness reviews the</p> <p>14 exhibit.)</p> <p>15 A Okay.</p> <p>16 Q Is it correct that Governor James and</p> <p>17 Secretary of State Jim Bennett were</p> <p>18 quoted as saying that voter ID</p> <p>19 requirement was a safeguard against fraud</p> <p>20 although they are not aware of people</p> <p>21 identifying themselves as other voters;</p> <p>22 is that right?</p> <p>23 A Yes.</p>
<p style="text-align: right;">Page 26</p> <p>1 and how much effort it would take to</p> <p>2 overcome that. And I -- when I started</p> <p>3 voting, you'd simply go in, they ask you</p> <p>4 your name, and you give the name and then</p> <p>5 you -- they would cross it out and so</p> <p>6 that -- that system had worked.</p> <p>7 I didn't know of anybody -- the</p> <p>8 problem wasn't getting folks to go vote</p> <p>9 twice. The problem was to get folks to</p> <p>10 go vote once. And so I knew it didn't</p> <p>11 take much to intimidate people and just</p> <p>12 the requirement that you've got to have</p> <p>13 ID when all these years you didn't have</p> <p>14 to have -- have to have ID was going to</p> <p>15 be another factor in intimidating black</p> <p>16 folks.</p> <p>17 Q Okay. Thank you, Senator. You mentioned</p> <p>18 in this article also that people were</p> <p>19 killed for trying to vote. When</p> <p>20 you're -- when you're talking about that,</p> <p>21 are you talking about African-Americans</p> <p>22 were killed for trying to vote in</p> <p>23 Alabama?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q Senator Sanders, is it safe to say you --</p> <p>2 well, are you familiar with any kind of</p> <p>3 voter impersonation fraud where one</p> <p>4 person is going to the polls to say that,</p> <p>5 you know, me going to the polls and</p> <p>6 saying, I'm Hank Sanders and trying to</p> <p>7 vote or something like that?</p> <p>8 A I'm not familiar with that at all and --</p> <p>9 and I've been involved in elections since</p> <p>10 1966. That simply does not happen.</p> <p>11 Q Okay.</p> <p>12 A I mean, you may have one -- one chance</p> <p>13 out of a million of something. That just</p> <p>14 does not happen.</p> <p>15 Q And why do you think it doesn't happen,</p> <p>16 Senator?</p> <p>17 MR. NEIMAN: Objection.</p> <p>18 Speculation.</p> <p>19 A It doesn't happen, one, because even if</p> <p>20 somebody wanted to commit fraud, that</p> <p>21 would take too much effort to get people</p> <p>22 to do it. I mean, there -- there would</p> <p>23 probably be other ways to commit fraud</p>

<p style="text-align: right;">Page 29</p> <p>1 that would be -- involve more people. 2 First, it would take too much effort. 3 The second, the people would know 4 that they were violating the law. 5 Third, most of these voting places, 6 particularly in rural areas and probably 7 in other areas, many of the voting people 8 literally know the people. So it's just 9 simply -- it does not happen. 10 Q Okay. So is it fair to say that you 11 agree with at least this article's 12 representations of what Governor James 13 and Secretary of State Bennett said; is 14 that correct? 15 A That I agree with it? 16 Q That there -- that there's no evidence of 17 voter impersonation fraud in Alabama? 18 A Yes, I -- I -- I agree with that. 19 Q Okay. It's consistent with your 20 understanding; correct? 21 A Yeah. 22 Q Okay. Senator, can you look down at 23 those next three or four article --</p>	<p style="text-align: right;">Page 31</p> <p>1 in Alabama you're supposed to be offered 2 an opportunity to register to vote under 3 the National Voter Registration Act? 4 A Yes. 5 Q Okay. And is it your understanding that 6 when you say "other offices," is it true 7 that offices like public benefits offices 8 are also supposed to offer people 9 opportunities to register to vote? 10 A Yes. 11 Q Okay. And so this article mentions that 12 Republicans -- paraphrasing it -- 13 Republicans fear that 180,000 Alabamians 14 are going to be registered under the 15 federal motor voter law and that they're 16 mostly Democrats and that there was a 17 concern -- that that was part of the 18 concern for why Republicans wanted to 19 pass a photo ID requirement? 20 MS. MESSICK: Object to 21 the form. 22 Q Is that an accurate sort of paraphrasing 23 of what this says?</p>
<p style="text-align: right;">Page 30</p> <p>1 paragraphs there on that second page. 2 A Yes. Okay. 3 Q Senator, do you know what the motor voter 4 law is? 5 A I do. 6 Q Can you explain to me -- is that also 7 known as the National Voter Registration 8 Act? 9 A It was. 10 Q Okay. Can you explain to me what that 11 was? 12 A Basically, the motor voter law was passed 13 by the U.S. Congress and it basically 14 said that whenever you get certain 15 federal services then they should provide 16 the right to register to vote. And -- 17 and I think it was called the motor voter 18 because a lot of that had to do with 19 driver's license, but they were not the 20 only offices that was impacted, state 21 offices that were impacted. 22 Q Would it also be at -- so is it your 23 understanding that if you go to the DMV</p>	<p style="text-align: right;">Page 32</p> <p>1 A Yes. 2 Q Do you recall anything about that at the 3 time that Republicans having that kind of 4 concern? 5 A It's just coming -- it's just coming back 6 to me. That this effort to get voter ID 7 was a reaction to the voter motor law. 8 And I had forgotten about all that, but I 9 remember it now. 10 Q Senator, this article also mentions that 11 the United States Department of Justice 12 had objected to Louisiana's photo 13 identification requirement. Do you think 14 that the legislature in 1996 would have 15 been aware of that Louisiana -- the 16 objection to Louisiana's photo 17 identification bill? 18 MS. MESSICK: Object to 19 the form. 20 A Yes. 21 Q Okay. Do you think that that objection 22 may have deterred Alabama from passing a 23 photo identification law?</p>

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1 MS. MESSICK: Objection.
2 MR. NEIMAN: Objection.
3 Calls for speculation.
4 A Well, I recall -- I recall us telling
5 them -- not necessarily about Louisiana
6 but we told them that this was going to
7 be rejected by the U.S. Justice
8 Department.
9 Q Because Alabama was a covered
10 jurisdiction --
11 A Yes.
12 Q -- under section 5?
13 A That's right.
14 Q Okay. And why do you think the
15 Department of Justice would have objected
16 to a photo identification requirement?
17 MS. MESSICK: Objection.
18 MR. NEIMAN: Objection.
19 Calls for speculation. Calls
20 for a legal conclusion.
21 A Well, I had been a part of a number of
22 efforts over the years to have the
23 Justice Department object to various

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1 kinds of laws that were passed and so --
2 I had gone to Washington, I was familiar
3 with it. And I knew that -- that this
4 was another attempt to reduce voter
5 participation and I knew that it fell
6 under the kinds of things that the U.S.
7 Justice Department would not preclear and
8 if they decided to go ahead and get a
9 three-judge court, I did not think that
10 they would be able to do it. So I knew
11 from experience that the Justice
12 Department would object.
13 MS. MESSICK: Object to
14 the form of the answer.
15 Q Senator, you said that you were familiar,
16 you had experience with section 5
17 objections; is that right?
18 A Yes.
19 Q And so you have -- you have personally
20 been a part of efforts to get the
21 Department of Justice to object to
22 certain legislation; is that correct?
23 A I have.

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1 Q Okay. So then you are familiar with that
2 process; is that correct?
3 A I am.
4 Q Okay. And, Senator, do you know what
5 retrogression under section 5 of the
6 Voting Rights Act is?
7 A I do.
8 Q Okay. So is it your understanding when
9 you say that the Department of Justice
10 would have objected, your belief based on
11 your experience at that time and now, is
12 that -- well, let me strike that.
13 Is it your understanding that the
14 law requiring photo ID in Alabama would
15 have been retrogressive under the Voting
16 Rights Act?
17 MS. MESSICK: Object to
18 the form.
19 MR. NEIMAN: Objection.
20 A Yes.
21 Q Senator, you mentioned earlier -- and
22 you're quoted in this article as saying
23 there's a major problem -- a major

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1 problem in Alabama is that not enough
2 people are going to the polls; is that
3 correct?
4 A Yes.
5 Q Okay. Do you recall if the legislature
6 at this time in '96 passed any
7 legislation to address that problem?
8 A No, they -- we did not.
9 Q Okay. Do you recall if Alabama at that
10 time considered an early voting bill?
11 A I don't recall whether there was a bill.
12 I do recall that there was discussion
13 about it.
14 Q Uh-huh. And do you recall if that bill
15 is in effect today?
16 A No. I know it's not in effect today.
17 Q Okay. There's no early voting in Alabama
18 today; is that correct?
19 A Unless you consider absentee voting.
20 Q Okay. And what is absentee voting,
21 Senator?
22 A Absentee voting is a way to vote when
23 someone is unable to go to the polls on

<p style="text-align: right;">Page 37</p> <p>1 election day either because of a handicap</p> <p>2 or because of -- because of -- because of</p> <p>3 being out of the county on that</p> <p>4 particular day.</p> <p>5 Q So they have to have an excuse; is that</p> <p>6 correct?</p> <p>7 A Yes.</p> <p>8 Q Okay. Another article about the 19 --</p> <p>9 another article about the 1996 session.</p> <p>10 I'll give you a moment to review it.</p> <p>11 (Plaintiff's Exhibit 2 was</p> <p>12 marked for</p> <p>13 identification.)</p> <p>14 Q Plaintiff's Exhibit 2.</p> <p>15 (At which time, the</p> <p>16 witness reviews the</p> <p>17 exhibit.)</p> <p>18 A Okay.</p> <p>19 Q Senator, does that refresh your</p> <p>20 recollection about what happened to the</p> <p>21 1996 Alabama voter ID bill?</p> <p>22 A Yeah, yeah.</p> <p>23 Q Okay. Senator Sanders, this article --</p>	<p style="text-align: right;">Page 39</p> <p>1 passed that required people to put</p> <p>2 additional restrictions on absentee</p> <p>3 voting. Do you recall that bill?</p> <p>4 A I don't.</p> <p>5 Q Okay. Do you recall if there were</p> <p>6 concerns about voter fraud and absentee</p> <p>7 voting in the 1990s?</p> <p>8 MS. MESSICK: Object to</p> <p>9 the --</p> <p>10 A Yes.</p> <p>11 MS. MESSICK: -- form.</p> <p>12 Q Okay. Do you recall what those concerns</p> <p>13 were?</p> <p>14 MS. MESSICK: Object to</p> <p>15 the form.</p> <p>16 A Well, I have been a part of the Marion</p> <p>17 Three case, in fact, I was -- before it</p> <p>18 was ever a case. African-Americans</p> <p>19 had -- in Perry County had complained</p> <p>20 about it and we even sent Albert Turner</p> <p>21 and I believe his brother Robert Turner</p> <p>22 up to Washington, DC, to meet with the</p> <p>23 Attorney General up there because whites</p>
<p style="text-align: right;">Page 38</p> <p>1 what happened to the 1996 voter ID bill</p> <p>2 according to your memory?</p> <p>3 A It did not pass. There was a filibuster</p> <p>4 or something, extended debate, commonly</p> <p>5 known as filibuster.</p> <p>6 Q Okay. And do you recall who led that</p> <p>7 filibuster in 1996?</p> <p>8 A I don't recall who led it. I recall</p> <p>9 being a part of it.</p> <p>10 Q Okay. Would it have been -- would other</p> <p>11 members of the black legislative caucus</p> <p>12 have been a part of that filibuster?</p> <p>13 A Absolutely.</p> <p>14 Q Okay. Do you recall why you were a part</p> <p>15 of that filibuster in 1996?</p> <p>16 A Yes. I felt like there -- there was no</p> <p>17 need for this legislation, that this</p> <p>18 legislation would reduce the</p> <p>19 participation of African-American and --</p> <p>20 and -- and poor people in the process and</p> <p>21 I just did what I could to stop it.</p> <p>22 Q Okay. Senator, this article also</p> <p>23 mentions that there was an absentee bill</p>	<p style="text-align: right;">Page 40</p> <p>1 were clearly doing things that was</p> <p>2 illegal and we had complained and nothing</p> <p>3 had happened. And they went up to</p> <p>4 Washington, DC, and they were simply told</p> <p>5 there's nothing we can do, you're going</p> <p>6 to have to learn how to use absentee.</p> <p>7 So when they came back, I gave them</p> <p>8 classes on how to use absentees legally</p> <p>9 and -- and when African-Americans</p> <p>10 officials became successful, then whites</p> <p>11 began to complain about blacks using</p> <p>12 absentee ballots. And that's when the</p> <p>13 FBI and the U.S. attorney swooped in and</p> <p>14 they ended up bringing cases against</p> <p>15 Albert and Evelyn Turner and Spencer</p> <p>16 Hogue and they were all exonerated on</p> <p>17 those charges.</p> <p>18 Q Okay. Senator, I'm going to take a step</p> <p>19 back a little bit. When you say you gave</p> <p>20 classes to people in Alabama on absentee</p> <p>21 voting, were those African-Americans?</p> <p>22 A Yes.</p> <p>23 Q Okay. And you mentioned Albert Turner.</p>

<p style="text-align: right;">Page 41</p> <p>1 Who was Albert Turner?</p> <p>2 A Albert Turner was a resident of Perry</p> <p>3 County. He had been deeply involved in</p> <p>4 the Civil Rights movement. He was the</p> <p>5 state director for SCLC under Dr. King</p> <p>6 during the 19 -- mid 1960s.</p> <p>7 Q Okay. And SCLC is that the Southern</p> <p>8 Christian Leadership Conference?</p> <p>9 A Yes.</p> <p>10 Q And that's a civil rights organization?</p> <p>11 A Yes.</p> <p>12 Q So you also mentioned the Marion Three.</p> <p>13 Can you tell me who are -- were the</p> <p>14 Marion Three, Senator?</p> <p>15 A Well, they were three who was charged</p> <p>16 with, if I recall, 70-some charges of</p> <p>17 voter fraud. And they were part of what</p> <p>18 was called the Black Belt Eight. But</p> <p>19 there was five from Green County and</p> <p>20 three from Perry County. And some</p> <p>21 referred to them as the Perry County</p> <p>22 Three and some referred to them as the</p> <p>23 Marion Three.</p>	<p style="text-align: right;">Page 43</p> <p>1 A Yes.</p> <p>2 Q Do you recall if they -- if there were</p> <p>3 witnesses brought to testify against</p> <p>4 them?</p> <p>5 A Yes. I -- I recall because I was a part</p> <p>6 of it. In fact, I was the only attorney</p> <p>7 in the case during that time. Later on,</p> <p>8 we brought in some other attorneys. But</p> <p>9 I recall that they went over to -- that</p> <p>10 the U.S. attorney office and the --</p> <p>11 arranged for two buses, as I recall, and</p> <p>12 they took the buses and they located them</p> <p>13 there where Jimmy Lee Jackson had been</p> <p>14 shot, which is very symbolic. It sends</p> <p>15 the idea that you may be shot; you may be</p> <p>16 killed.</p> <p>17 And they had law enforcement, a</p> <p>18 bunch of law enforcement, with their guns</p> <p>19 all around, and they loaded people on</p> <p>20 those buses and took them 168 miles to</p> <p>21 Mobile and kept them overnight. The</p> <p>22 federal courthouse is right here in</p> <p>23 Selma. They could have brought the grand</p>
<p style="text-align: right;">Page 42</p> <p>1 Q Okay.</p> <p>2 A And -- and Evelyn Turner was the wife of</p> <p>3 Albert Turner.</p> <p>4 Q And is Ms. Turner still alive?</p> <p>5 A She is.</p> <p>6 Q Okay. And do you recall -- you mentioned</p> <p>7 that there were some 70 charges against</p> <p>8 them or indict- -- 70 counts against</p> <p>9 them?</p> <p>10 A Seventy counts.</p> <p>11 Q And what were the charges --</p> <p>12 A 70-some counts.</p> <p>13 Q 70-some counts. And what were the</p> <p>14 charges that were brought against them?</p> <p>15 A I don't remember the details of them now,</p> <p>16 but it was essentially voter fraud. They</p> <p>17 were saying that they had committed fraud</p> <p>18 in the voting fraud in the absentee</p> <p>19 process. That was like 30-some years</p> <p>20 ago.</p> <p>21 Q Uh-huh. And do you recall what happened</p> <p>22 when those black voters were indicted for</p> <p>23 alleged voter fraud?</p>	<p style="text-align: right;">Page 44</p> <p>1 jury up there and people could have gone</p> <p>2 back and forth.</p> <p>3 We considered that an effort to</p> <p>4 intimidate them, get them out of their</p> <p>5 comfort zone so they could say whatever</p> <p>6 they want to.</p> <p>7 Q And you mean the -- "they," to intimidate</p> <p>8 the black witnesses?</p> <p>9 A The U.S. attorney, yes.</p> <p>10 Q Okay. And when you say they trans- --</p> <p>11 the people who forced the witnesses to go</p> <p>12 to the federal courthouse in Mobile, who</p> <p>13 were they?</p> <p>14 A U.S. attorney office. That was</p> <p>15 essentially the U.S. attorney's office.</p> <p>16 Q Okay. Do you know if they may have</p> <p>17 worked in cooperation with Alabama state</p> <p>18 officials?</p> <p>19 A I don't -- I don't recall.</p> <p>20 Q Okay. Okay. Senator, you also mentioned</p> <p>21 ed Jimmy Lee Jackson. Who was he?</p> <p>22 A Jimmy Lee Jackson was a -- a citizen of</p> <p>23 Perry County and his mother and</p>

<p style="text-align: right;">Page 45</p> <p>1 grandfather had participated in a night 2 march. They rarely had night marches 3 because they were very dangerous, but on 4 this occasion they had a night march 5 because they had put Reverend James 6 Orange in jail and we had received word 7 that they were going to kill him. So 8 they -- that night they were going to 9 come to the jail and kill him. So they 10 held the night march to make sure he 11 didn't die.</p> <p>12 So when they left the church, they 13 were heading over to the jail and all of 14 the lights were cut off and people were 15 beat up and Jimmy Lee Jackson was 16 insisting that his father be -- his 17 grandfather be taken to the -- to the 18 hospital he -- and the state troopers 19 shot him.</p> <p>20 Q Okay. Was this in 1965? 21 A '65 in Marion. He died about a week 22 later.</p> <p>23 Q Okay. Excuse me. Senator, I think you</p>	<p style="text-align: right;">Page 47</p> <p>1 also in the 1980s? 2 A Yes. 3 Q Do you remember if those were 4 prosecutions against Maggie Bozeman 5 and -- 6 A And Julia Wilder. But Maggie Bozeman and 7 Julia Wilder, yes, I recall those. 8 Q Okay. Do you recall what those 9 prosecutions were about exactly? 10 A I don't recall the details. I recall 11 that we started out to march from Pickens 12 County to Washington, DC. I was a part 13 of -- of that march and I don't remember 14 the details but I do recall it. 15 Q Those were -- were those also 16 prosecutions involving alleged voter 17 fraud? 18 A Yes. 19 Q Okay. Do you remember if Ms. Bozeman and 20 Ms. Wilder were convicted for voter 21 fraud? 22 A Yes. 23 Q Okay. Do you know if they were -- if</p>
<p style="text-align: right;">Page 46</p> <p>1 already said this but just to go back, 2 what happened to the charges against the 3 Marion Three? 4 A They were found not guilty by a jury of 5 both blacks and whites. 6 Q Okay. Senator, do you recall a case 7 United States versus Gordon? 8 A Not by the name. 9 Q Okay. Do you recall being involved at 10 all in a case called Smith versus Meese, 11 who was the former Attorney General for 12 the United States? 13 A That was -- 14 Q Okay. 15 A When you get to 74, that doesn't come 16 back to you that easy. 17 Q That's fine, Senator. I may have some 18 documents to refresh your recollection 19 later. But so, Senator, are you aware of 20 any voter fraud -- other voter fraud 21 prosecutions. You mentioned they were a 22 few of the Black Belt Eight. Do you 23 recall an investigation in Pickens County</p>	<p style="text-align: right;">Page 48</p> <p>1 those convictions were overturned? 2 A I think so. 3 Q Okay. Do you recall if after their 4 convictions were overturned if they were 5 ever prosecuted again? 6 A I don't recall. 7 Q Okay. So, Senator, the prosecutions that 8 you were just talking about, you called 9 them the Black Belt Eight, is -- do you 10 believe that those prosecutions were 11 racially motivated? 12 MS. MESSICK: Object to 13 the form. 14 MR. NEIMAN: Objection. 15 Calls for speculation. 16 A Yes, yes, I believe that they were 17 racially motivated. When blacks 18 complained about it against whites, 19 nothing was done. When whites complained 20 about it against blacks, they went all 21 out after -- after the African-American. 22 VIDEOGRAPHER: 23 Mr. Sanders, your mike fell.</p>

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1 THE WITNESS: I guess it
2 got too hot for the mike.
3 Q Senator, in your experience as someone
4 who represented people in voter fraud
5 prosecutions and who's been a
6 representative of the black belt for a
7 long time, when politicians discuss voter
8 fraud in Alabama, is it thought of as an
9 issue affecting the black belt in
10 particular?
11 MS. MESSICK: Object to
12 the form.
13 A It's -- it's my strong impression that
14 whenever they're talking about voter
15 fraud, they're nearly always talking
16 about black people. And that --
17 MS. MESSICK: Object to
18 the form --
19 A -- they are -- and quite often in
20 particular the black belt.
21 Q Okay.
22 MS. MESSICK: Object to
23 the form of the answer.

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1 Q Senator, and what's your basis for
2 believing that?
3 A Well, I've -- I've had -- been part of
4 those efforts of trying to get them to
5 investigate white people. We couldn't
6 get them to investigate them but when
7 whites complained about blacks, blacks
8 were -- the investigations were
9 extensive. And so I've -- I've had --
10 been -- been involved in that.
11 Q Okay. Thank you, Senator. Do you know
12 if the Alabama legislature has ever used
13 voter fraud to justify racially
14 discriminatory laws?
15 MS. MESSICK: Object to
16 the form.
17 A I don't understand.
18 Q Well, let me try again, Senator.
19 Senator, are you familiar with the poll
20 tax in Alabama?
21 A I am.
22 Q Do you -- if you don't know, it's fine,
23 Senator. But do you recall what the

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1 justification for the poll tax in
2 Alabama -- well, let me start over.
3 What was the poll tax?
4 A The poll tax were -- and I believe it was
5 in the constitution -- requiring in order
6 to be able to vote you had to pay and
7 pay -- pay a certain tax. And the way
8 that tax was set up, that you didn't have
9 just pay for that year but you had to go
10 back and pay from the time that you were
11 able to vote. And so if you had not
12 voted for 10 years, you couldn't pay just
13 that one year and start voting. You had
14 to pay it back. So it had a strong
15 impact on poor people and
16 African-Americans in particular. In that
17 it was not enforced against white people,
18 but it was enforced against black people.
19 Q Okay. Senator -- and, again, if you
20 don't know, it's fine. But do you recall
21 what the justification for laws like the
22 poll tax were?
23 MS. MESSICK: Object to

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1 the form.
2 A Well, the poll tax and literacy tests,
3 none of them mentioned race but they
4 were, again, ways to prevent
5 African-Americans from registering and
6 voting and that's -- that's -- that's
7 what it was about.
8 Q Thank you, Senator. Senator, I'd like to
9 draw your attention back to the 1990s and
10 voter ID bills. Do you recall other
11 efforts in the 1990s to pass voter ID
12 bills after the 1996 legislation?
13 A I don't recall.
14 Q Would it help if I refreshed your
15 recollection?
16 A It would.
17 Q For the record, this is Plaintiff's
18 Exhibit 3. It's an article from Westlaw
19 of "Governor Pushing Voter ID Bills" from
20 "Birmingham News," March 11, 1998.
21 (Plaintiff's Exhibit 3 was
22 marked for
23 identification.)

<p style="text-align: right;">Page 53</p> <p>1 (At which time, the</p> <p>2 witness reviews the</p> <p>3 exhibit.)</p> <p>4 A Yes, sir, I recall it now.</p> <p>5 Q Thank you, Senator. Do you see some</p> <p>6 quotes from yourself in that article?</p> <p>7 A I do.</p> <p>8 Q And it says that in 1998, you said that:</p> <p>9 "I would do everything I can to see we</p> <p>10 don't have voter ID." Do you recall</p> <p>11 that, Senator?</p> <p>12 A I do now.</p> <p>13 Q Okay. Do you -- do you think that was</p> <p>14 consistent with your position in 1998?</p> <p>15 A It was.</p> <p>16 Q Okay. And it also says that you</p> <p>17 considered the voter identification bill</p> <p>18 part of a multifaceted attack on black</p> <p>19 voting rights?</p> <p>20 A Yes.</p> <p>21 Q Is that consistent with your views at the</p> <p>22 time?</p> <p>23 A Yes.</p>	<p style="text-align: right;">Page 55</p> <p>1 A Yes.</p> <p>2 Q Okay. Do you recall if there were any</p> <p>3 section 5 objections to re-identification</p> <p>4 bills in Dallas County?</p> <p>5 A I don't -- I don't remember them passing</p> <p>6 in Dallas County, but I remember Perry</p> <p>7 County and Sumter County.</p> <p>8 Q Okay. But would it surprise you if there</p> <p>9 were other objections to</p> <p>10 re-identification bills that you don't</p> <p>11 recall?</p> <p>12 MS. MESSICK: Objection.</p> <p>13 A It would not surprise me. When you're</p> <p>14 going back 30 and 40 years...</p> <p>15 Q Yes, Senator, I understand. Okay. So</p> <p>16 getting back to this article. So you</p> <p>17 mentioned this was a multifaceted attack</p> <p>18 on black voting rights. Well, I guess.</p> <p>19 Sorry.</p> <p>20 And your testimony was that you --</p> <p>21 well, can you explain again -- sorry --</p> <p>22 why you felt that way?</p> <p>23 A Yes. From the time I came here, came to</p>
<p style="text-align: right;">Page 54</p> <p>1 Q Okay. Do you recall why you felt that</p> <p>2 way?</p> <p>3 A Well, I had been part of the Black Belt</p> <p>4 Eight, the Marion Three. Over the years</p> <p>5 I had fought against efforts for -- they</p> <p>6 call them re-identification bills where</p> <p>7 everybody would have to -- everybody</p> <p>8 would be taking off the rolls and</p> <p>9 everybody would have to register again.</p> <p>10 They just called them re-identification</p> <p>11 bills. We fought over those. So over</p> <p>12 the years, there had been one effort</p> <p>13 after another to suppress voting rights.</p> <p>14 So...</p> <p>15 Q Take a step back. You mentioned</p> <p>16 re-identification bills in Alabama.</p> <p>17 A Yes. They were local bills, so they</p> <p>18 would affect particular counties.</p> <p>19 Q But were they passed by the Alabama</p> <p>20 legislature?</p> <p>21 A Yes.</p> <p>22 Q Do you know if there were any section 5</p> <p>23 objections to re-identification bills?</p>	<p style="text-align: right;">Page 56</p> <p>1 Lowndes County in 1966 thinking that in</p> <p>2 no time at all black voting rights would</p> <p>3 be fully implemented, over the years</p> <p>4 there were always one effort of another</p> <p>5 to try to prevent African-Americans from</p> <p>6 voting freely and fully and so it -- it</p> <p>7 has been a long history of it. So from</p> <p>8 the time I came in 1971 on up, at every</p> <p>9 election there was some kind of effort.</p> <p>10 So this is -- once the motor voter</p> <p>11 act passed, this was just a continuing</p> <p>12 of -- of those long history of efforts.</p> <p>13 Q Thank you, Senator. Do you recall what</p> <p>14 happened to the bill in 1998?</p> <p>15 A It didn't -- it seemed to me like it</p> <p>16 passed the Senate but didn't pass the</p> <p>17 House.</p> <p>18 Q Senator, can I hand you --</p> <p>19 A And I think the one in '96 passed the</p> <p>20 House, but didn't pass the Senate.</p> <p>21 Q Okay. But neither the '96 or '98 bill</p> <p>22 passed to your recollection?</p> <p>23 A As I recall.</p>

<p style="text-align: right;">Page 57</p> <p>1 Q Okay. Would it help if I refreshed your 2 recollection, Senator?</p> <p>3 A Please do.</p> <p>4 Q I'll hand you what's marked as 5 Plaintiff's 4. It's an article, again, 6 off of Westlaw from the "Birmingham 7 News," March 12th, 1998. I'll give you a 8 moment to review.</p> <p>9 A Okay. 10 (Plaintiff's Exhibit 4 was 11 marked for 12 identification.) 13 (At which time, the 14 witness reviews the 15 exhibit.)</p> <p>16 A Okay.</p> <p>17 Q Does that refresh your recollection, 18 Senator?</p> <p>19 A It -- it doesn't re- -- I -- I -- I don't 20 remember anymore than I did, that it 21 passed the Senate and didn't pass the 22 House, but maybe it did pass the House. 23 This doesn't tell me one way or the</p>	<p style="text-align: right;">Page 59</p> <p>1 Q Okay. So would it have been white 2 Democrats who voted for the bill in 1998?</p> <p>3 A Yes. In 1998, I don't -- I don't 4 remember it being a whole lot of 5 Republicans, so it would have been 6 white -- whites and -- white Republicans 7 and white Democrats, but it would have 8 been whites.</p> <p>9 Q So when it says that whites voted for the 10 bill, the bipartisan white voters [sic] 11 voted for the bill but every black 12 senator voted against the bill; is that 13 correct?</p> <p>14 A Except George Clay.</p> <p>15 Q Except George Clay; right?</p> <p>16 A Yes.</p> <p>17 Q Okay. And your recollection is that the 18 bill did not pass; is that right?</p> <p>19 A That's my recollection, but...</p> <p>20 Q Okay. Senator, do you recall if there 21 was -- a voter ID bill was passed prior 22 to 2003 at all?</p> <p>23 A I don't recall one being passed.</p>
<p style="text-align: right;">Page 58</p> <p>1 other.</p> <p>2 Q Okay. Fair enough. Senator, do you see 3 paragraph 4 there -- or the fourth 4 paragraph in this article --</p> <p>5 A Yeah.</p> <p>6 Q -- there that begins "the committee 7 approved"?</p> <p>8 A Yeah. The committee approved, yeah.</p> <p>9 Q Uh-huh. Can you just review that 10 paragraph for me where -- and it also 11 says, "Every white senator voted for the 12 bill and every black senator, except 13 George Clay of Tuskegee voted against 14 it."</p> <p>15 A Yeah.</p> <p>16 Q Does that sound like an accurate 17 representation of what happened in 1998?</p> <p>18 A Yes.</p> <p>19 MS. MESSICK: Object to 20 the form.</p> <p>21 Q Okay. Senator, who controlled the Senate 22 in 1998?</p> <p>23 A Democrats.</p>	<p style="text-align: right;">Page 60</p> <p>1 Q Okay. Senator, is it correct that there 2 was a voter ID bill passed in 2003?</p> <p>3 A I don't remember the exact year, but 2003 4 might be correct.</p> <p>5 Q Okay. Do you recall if that voter 6 identification bill allowed people to 7 vote with non-photo ID, like with utility 8 bills or things like that?</p> <p>9 A Yes, I do.</p> <p>10 Q Okay. Do you recall whether the passage 11 of the 2003 bill was in anyway tied to 12 felon disenfranchisement legislation?</p> <p>13 MS. MESSICK: Object to 14 the form.</p> <p>15 A Yes. We were very concerned about people 16 with criminal records not being able to 17 vote and we worked out an agreement that 18 both bills were going to -- to pass and 19 both bills would be enacted. And then 20 after the bills passed -- well, first, 21 the whole thing concerning -- as I 22 recall, the bill had 13, 14 different 23 kinds of ID, including utility bills and</p>

<p style="text-align: right;">Page 61</p> <p>1 other kinds of things. So people could 2 easily -- they didn't have to go 3 anywhere. They didn't do anything. They 4 just get a utility bill or a light bill 5 or gas bill. And so -- and we agreed 6 that if -- if both bills passed we would 7 let the voter ID pass and they would let 8 the felony disenfranchisement bill pass. 9 And I recall that when it got over 10 there, the governor vetoed the felony 11 disenfranchisement bill and he signed the 12 voter ID bill. 13 Q Okay. So, Senator, let me take you a 14 couple of steps back. You said we had 15 worked out a deal. Is that -- who is 16 "we"? 17 A By we, I mean the -- the -- the 18 leadership of the Senate and -- and 19 leadership of the House that included 20 African-Americans. 21 Q Okay. So would it have included the 22 Alabama legislative black caucus? 23 A Yes.</p>	<p style="text-align: right;">Page 63</p> <p>1 either a pardon or get a voter 2 restoration. So it was the combination. 3 I think we still would have opposed it if 4 it wasn't tied to the felony 5 disenfranchisement bill. 6 Q So, Senator, you talked a little bit -- 7 let me also take step back a little bit. 8 So you mentioned felon disenfranchisement 9 in Alabama. Is it right that someone who 10 is disenfranchised under that law is not 11 allowed to vote for the rest of their 12 life unless certain -- you know, they 13 get -- sorry. They get, you know, some 14 kind of relief from that provided by the 15 state? 16 A Yes. It's -- it's something that I 17 strongly oppose. It -- it -- what -- 18 what it in effect becomes is kind of a 19 life sentence that it doesn't end when 20 you -- if you have time and you go serve. 21 It doesn't end if you're on probation. 22 It doesn't end if you're on parole. It 23 continues to haunt you.</p>
<p style="text-align: right;">Page 62</p> <p>1 Q And you mentioned that a lot of different 2 bills or identifications were acceptable 3 under the 2003 bill. 4 A Yes. 5 Q Is that one of the reasons why the 6 Alabama legislative black caucus 7 supported the bill? 8 MS. MESSICK: Object to 9 the form. 10 A Well, first, we really didn't want any ID 11 bill, but it became more acceptable if 12 you had ID that people didn't have to 13 go -- a social security card. They 14 didn't have to go anywhere, didn't have 15 to do anything. But even then, it was 16 tied to a felony disenfranchisement. A 17 high percentage of -- of 18 African-Americans have criminal records 19 that was preventing them from voting. So 20 every conviction became a life sentence 21 because you had that and you -- you just 22 wasn't able to vote unless you jumped 23 through a whole lot of hoops to get</p>	<p style="text-align: right;">Page 64</p> <p>1 MS. MESSICK: Objection. 2 A And -- and it's -- it's -- it has a -- a 3 disproportionate impact on 4 African-Americans. 5 MS. MESSICK: Object to 6 the form of the answer. 7 Q Senator, do you know -- is it only 8 certain kinds of felonies that people are 9 disenfranchised for under Alabama's law, 10 if you know? 11 A It's supposed to be. It's supposed to be 12 those that have moral turpitude. But 13 moral turpitude has never been generally 14 clearly defined. 15 Q Okay. 16 A And if you go to one voter place to -- 17 to -- one place to vote, it may be 18 considered -- a particular crime might be 19 considered voter -- to have moral 20 turpitude and you go to another and it 21 may just be different. It's never been 22 clearly defined. 23 MS. MESSICK: Object to</p>

<p style="text-align: right;">Page 65</p> <p>1 the form of the answer.</p> <p>2 Q Okay. Do you know where the term moral</p> <p>3 turpitude comes from?</p> <p>4 A I think that it came from the 1901</p> <p>5 constitution, but I'm not sure. I can't</p> <p>6 recall exactly, but I think it came from</p> <p>7 the 1901 constitution.</p> <p>8 Q Senator, do you recall if the felon</p> <p>9 disenfranchisement provision of the 1901</p> <p>10 constitution was ever struck down by the</p> <p>11 Supreme Court or any other court?</p> <p>12 A I don't recall. I do recall that the</p> <p>13 moral turpitude provision was very</p> <p>14 limited. It involved things like treason</p> <p>15 and that kind of thing. It didn't -- it</p> <p>16 didn't include nearly what all they later</p> <p>17 read into it.</p> <p>18 Q Okay.</p> <p>19 MS. MESSICK: Object to</p> <p>20 the form of the answer.</p> <p>21 Q Senator, could it be -- it's possible</p> <p>22 that you just don't recall -- well,</p> <p>23 you've said you don't recall exactly what</p>	<p style="text-align: right;">Page 67</p> <p>1 Riley was a Democrat or Republican?</p> <p>2 A Republican.</p> <p>3 Q Do you recall what the legislative black</p> <p>4 caucus' response was to that veto?</p> <p>5 A I don't recall in particular.</p> <p>6 Q Okay.</p> <p>7 A I know we felt strongly about it and I</p> <p>8 recall writing an article about it.</p> <p>9 Q Okay. And when you say "felt strongly,"</p> <p>10 can you elaborate on what you mean by</p> <p>11 that?</p> <p>12 MS. MESSICK: Object to</p> <p>13 the form of the question.</p> <p>14 A Well, we felt like we had been betrayed</p> <p>15 and we felt like we had been tricked.</p> <p>16 And that what we had all agreed upon, as</p> <p>17 I recall, including him, was not followed</p> <p>18 through.</p> <p>19 Q Okay. But that voter ID bill did become</p> <p>20 law; is that correct?</p> <p>21 A It did.</p> <p>22 Q Okay. So, Senator, earlier you mentioned</p> <p>23 that in 2010 Democrats lost control of</p>
<p style="text-align: right;">Page 66</p> <p>1 happened to the 1901 provision of the</p> <p>2 felony disenfranchisement?</p> <p>3 A I don't recall.</p> <p>4 Q Okay. So going back, you mentioned that</p> <p>5 the bills -- both the voter ID bill and</p> <p>6 the bill that would have assisted people</p> <p>7 with former or people with felony</p> <p>8 convictions voting, both of them passed</p> <p>9 the legislature; is that correct?</p> <p>10 A Yes.</p> <p>11 Q But the voter ID bill was signed by the</p> <p>12 governor; is that right?</p> <p>13 A Yes.</p> <p>14 Q And the re-enfranchisement bill for</p> <p>15 felons, that was vetoed by the governor;</p> <p>16 is that correct?</p> <p>17 A That's correct.</p> <p>18 Q Do you recall who the governor was at the</p> <p>19 time?</p> <p>20 A It was Governor Riley.</p> <p>21 Q Okay.</p> <p>22 A Bob Riley.</p> <p>23 Q Okay. And do you recall if Governor</p>	<p style="text-align: right;">Page 68</p> <p>1 the party; is that right -- or lost</p> <p>2 control of the legislature; is that</p> <p>3 right?</p> <p>4 A That's correct.</p> <p>5 Q Okay. Senator, just taking a little bit</p> <p>6 of a step back, when you were first</p> <p>7 elected in 1983, do you recall who the</p> <p>8 governor of Alabama was?</p> <p>9 A I believe it was judge -- Governor George</p> <p>10 Wallace.</p> <p>11 Q How long did Governor Wallace serve?</p> <p>12 A I think he served through 1986.</p> <p>13 Q Okay. And do you recall what Governor</p> <p>14 Wallace's party was?</p> <p>15 A He was Democrat.</p> <p>16 Q Okay. Senator, how long have you been a</p> <p>17 Democrat?</p> <p>18 A Well, I guess sense 1983.</p> <p>19 Q Okay.</p> <p>20 A I -- I'm -- I'm not -- you don't do party</p> <p>21 registration in Alabama, so -- so once</p> <p>22 I -- I ran as a Democrat -- I ran in</p> <p>23 1982, so I guess it's fair to say I've</p>

<p style="text-align: right;">Page 69</p> <p>1 been officially a Democrat since 1982.</p> <p>2 Q Okay. And who was -- well, let me start</p> <p>3 over.</p> <p>4 Governor Wallace, was he governor in</p> <p>5 1965 during the Selma march?</p> <p>6 A Yes.</p> <p>7 Q Okay. Governor Wallace's political</p> <p>8 views, would you describe them as</p> <p>9 consistent with the Democratic party</p> <p>10 today?</p> <p>11 MS. MESSICK: Object to</p> <p>12 the form.</p> <p>13 A Governor -- Governor Wallace political</p> <p>14 views in the 1960s was very different</p> <p>15 from the Democratic party of today.</p> <p>16 Q Okay. And how were -- were they</p> <p>17 different?</p> <p>18 MS. MESSICK: Object to</p> <p>19 the form.</p> <p>20 A Governor Wallace was very much against</p> <p>21 African-Americans having virtually any</p> <p>22 constitutional rights. He not only stood</p> <p>23 in the schoolhouse door but he said</p>	<p style="text-align: right;">Page 71</p> <p>1 A Yes.</p> <p>2 Q Would you describe them as conservative</p> <p>3 Democrats?</p> <p>4 MR. NEIMAN: Object to the</p> <p>5 form.</p> <p>6 A I would describe them certainly as</p> <p>7 conservative, but I would describe them</p> <p>8 as reactionary more than conservative.</p> <p>9 Q Okay. Senator Sanders, so talking about</p> <p>10 Democrats, they were -- that were in</p> <p>11 control of the party -- excuse me -- of</p> <p>12 the legislature until 2010, do you think</p> <p>13 that they were sort of factions of the</p> <p>14 Democratic party even within during that</p> <p>15 time that you were in the legislature?</p> <p>16 A Yes.</p> <p>17 Q Okay. Were there perhaps more liberal</p> <p>18 and more conservative factions of the</p> <p>19 Democratic party; is that right?</p> <p>20 MR. NEIMAN: Object to the</p> <p>21 form.</p> <p>22 A Yes. I think Democrats ran the spectrum</p> <p>23 run from conservative to progressive.</p>
<p style="text-align: right;">Page 70</p> <p>1 "Segregation now, segregation tomorrow."</p> <p>2 He was -- he just strongly opposed the</p> <p>3 rights of African-Americans to be full</p> <p>4 citizens. And today the Democratic party</p> <p>5 is certainly more open to a fuller</p> <p>6 citizenship role for African-Americans.</p> <p>7 Q Okay. Senator, have you ever heard the</p> <p>8 term Dixiecrat?</p> <p>9 A Yes.</p> <p>10 Q What does that term mean to you?</p> <p>11 A That was a -- I believe that that might</p> <p>12 have started in 1948 when a civil rights</p> <p>13 plank was put in the National Democratic</p> <p>14 Party and certain Democrats broke away.</p> <p>15 And I believe that Strom Thurmond was the</p> <p>16 candidate for sort of a breakaway party.</p> <p>17 And I think that Dixiecrat was a form of</p> <p>18 saying, we may be Democrats but we're not</p> <p>19 their kind of Democrats. We're -- we're</p> <p>20 Democrats that represent the old South.</p> <p>21 Q Okay. So Dixiecrats are those -- they</p> <p>22 were primarily Southern Democrats; is</p> <p>23 that fair to say?</p>	<p style="text-align: right;">Page 72</p> <p>1 Q And do you know if any of the more</p> <p>2 conservative Democrats ever switched</p> <p>3 parties?</p> <p>4 A Yes.</p> <p>5 Q Okay. Do you recall -- do you --</p> <p>6 Secretary of State Jim Bennett, do you</p> <p>7 know him?</p> <p>8 A Yes, I know him well. I served with him</p> <p>9 in the Senate.</p> <p>10 Q Okay. Do you recall what party he was a</p> <p>11 part of when you first met him?</p> <p>12 A He was a Democrat.</p> <p>13 Q Do you recall if he ever switched</p> <p>14 parties?</p> <p>15 A He did.</p> <p>16 Q And what party did he switch to?</p> <p>17 A Republican.</p> <p>18 Q Do you recall -- do you know Senator</p> <p>19 Shelby?</p> <p>20 A Yes, I know him.</p> <p>21 Q Do you recall if he was ever a Democrat?</p> <p>22 A Yes.</p> <p>23 Q And what party is he a party of now?</p>

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1 A Republican.

2 Q Are there other Democrats who have

3 switched to becoming Republicans in the

4 legislature?

5 A Yes. Let me --

6 Q Let me limit it, Senator.

7 A Okay.

8 Q Do you recall if there were any Democrats

9 who -- former Democrats, who serve in the

10 legislature now with you in the Senate?

11 A It's hard for me to pull it up. I'm

12 convinced there are, but it's just kind

13 of hard for me to pull it up.

14 Q That's fine, Senator. To your knowledge,

15 since being elected in 1983, have there

16 ever been any black Republicans in the

17 state legislature with you?

18 A No.

19 Q Okay. But it is your understanding there

20 are whites in the legislature who used to

21 be Democrats and are now Republicans?

22 A Yes.

23 Q Do you recall if any African-Americans

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1 ever switched from being a Democrat to a

2 Republican?

3 A Not to my knowledge.

4 Q In the legislature?

5 A Not to my knowledge.

6 Q Okay.

7 A I can't quite pull it up, but there was

8 something with Johnny Ford once. But I

9 can't -- I don't remember the details.

10 Q Okay. Senator, I think we need to take a

11 break for the tape and you probably need

12 a break too. Is that fair?

13 A I'd appreciate one.

14 Q Thank you, sir. We'll take a break, 10,

15 15-minute break.

16 VIDEOGRAPHER: This ends

17 disk one. Going off the record

18 at 10:56.

19 (At which time, a break

20 was held.)

21 VIDEOGRAPHER: This begins

22 disk two. Going back on the

23 record at 11:15.

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1 BY MR. ROSS:

2 Q Senator, do you know what racially

3 polarized voting is?

4 A Yes.

5 Q Can you describe that for me?

6 A Racial polarized voting, it's when

7 African-Americans as a group vote for one

8 candidate and whites as a group vote for

9 another candidate.

10 Q Okay. Do you believe that there's racial

11 polarized voting in Alabama?

12 A Yes.

13 Q Okay. What's your basis for that belief?

14 A Well, I've seen it down through the years

15 and if a white is running and a black is

16 running, then the whites more often than

17 not vote for the whites and blacks more

18 often than not vote for the black.

19 MS. MESSICK: I'm sorry.

20 Senator, can I ask you to pause

21 for a second before you answer

22 so I have time to object.

23 Q Okay. Senator, so you -- it's your

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1 testimony that racially polarized voting

2 exists in Alabama today?

3 A Yes.

4 Q Senator, do you believe that racially

5 polarized voting existed in Alabama in

6 2010?

7 MS. MESSICK: Object to

8 the form.

9 A Yes.

10 Q Okay. Do you believe that racially

11 polarized voting in Alabama is related to

12 the history of racial discrimination that

13 you described?

14 MS. MESSICK: Object to

15 the form.

16 MR. NEIMAN: Object to the

17 form.

18 A Yes.

19 Q How so?

20 A Well, to -- to truly understand

21 segregation, you have to go back well

22 before, and you have to go back to 1857

23 which the Dred Scott decision where the

<p style="text-align: right;">Page 77</p> <p>1 Supreme Court of the United States said 2 that no black person had any rights that 3 a white person was bound to respect. And 4 in that same decision, it said that 5 blacks were considered not just a lower 6 class but as subhuman. And, in my 7 opinion, that's why even after the Civil 8 War ended and slavery officially ended 9 with the 13th Amendment and you had the 10 14th and the 15th Amendment and in no 11 time at all rights were being taken away. 12 So at the bottom of it was that black 13 people were not considered as -- as 14 human. We were subhuman and that's why 15 you couldn't eat in a restaurant with 16 whites. That's why you couldn't use the 17 same bathroom, why you couldn't drink 18 from the same water fountain. That's why 19 you couldn't go to school together. 20 That's why you couldn't sleep in the same 21 hotels together. 22 We have a long, deep history of that 23 and it's -- it's -- it's very deep and --</p>	<p style="text-align: right;">Page 79</p> <p>1 A I don't think now -- I don't think that 2 there's racially polarized voting. Let 3 me -- let me think about that. 4 Certainly -- certainly in the past 5 there has been racial polarizing -- 6 polarized voting in the Democratic party. 7 I was -- I can't call up an instance in 8 the last two or three elections where 9 there was -- where that was the case. 10 Q Senator, let me give you -- see if I can 11 maybe help see if there's an example. 12 Do you know who Artur Davis is? 13 A I do. 14 Q Do you recall if he ran in the Democratic 15 primary in 2010 for governor? 16 A Yes. 17 Q Is he an African-American? 18 A He is. 19 Q Do you know who Ron Sparks is? 20 A Yes. 21 Q Did he run in the Democratic primary in 22 2010? 23 A He did.</p>
<p style="text-align: right;">Page 78</p> <p>1 and slavery had long arms and it has 2 reached in to the -- to the present day. 3 And so I don't -- in Alabama as far as I 4 know, I can't recall of a single 5 situation where there's a majority white 6 district that has elected an 7 African-American. There are some 8 majority black districts that 9 African-Americans have elected white. So 10 on top of that, nearly all 11 African-Americans are in the Democratic 12 Party and nearly all whites are in the 13 Republican Party. 14 So if you -- if you're white and you 15 vote Republican, it's going to be 16 polarized. If you're black and you vote 17 Democrat, it's going to be polarized, and 18 you just see it in virtually all 19 elections. 20 Q Do you think there is racially polarized 21 voting in Democratic primary elections? 22 MS. MESSICK: Object to 23 the form of the question.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q Is he a white candidate? 2 A He is. 3 Q Do you recall who won that primary 4 election? 5 A Ron Sparks. 6 Q Okay. Do you think that that may have 7 been an instance of racially polarized 8 voting in the Democratic primary? 9 MS. MESSICK: Object -- 10 MR. NEIMAN: Object to the 11 form. 12 MS. MESSICK: -- object to 13 the form. 14 A Not really, because African -- the 15 majority of African-Americans voted for 16 Ron Sparks and -- and -- and I assume the 17 majority of whites voted for Ron Sparks 18 as well. 19 MS. MESSICK: Object to 20 the form of the answer. 21 Q Senator, would it surprise you if there 22 was racially -- would it surprise if 23 there was racial polarization in that</p>

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1 election?

2 MS. MESSICK: Object to

3 the form of the question.

4 MR. NEIMAN: Objection to

5 form.

6 A It would.

7 Q Senator, do you know what racial appeals

8 are?

9 A Yes.

10 Q Can you describe them?

11 A Racial appeals are designed to appeal a

12 particular persons on race. They can be

13 overt or they can be covert and sometimes

14 people have code words that they can do

15 racial appeals with.

16 Q Okay. Senator, do you think that there

17 have been instances of racial appeals

18 using campaigns in Alabama over the last

19 10 years or so?

20 A Yes.

21 Q Can you think of any examples?

22 A President Obama was one certainly in the

23 last -- since 2010 and -- and if -- if

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1 you -- and so you had people even with

2 school board -- local school board

3 election people running against President

4 Obama. He became a symbol for black

5 people and they didn't have to say, you

6 know, vote against blacks. They could

7 just say vote against Obama. That's --

8 that's certainly one incident.

9 Q And you believe that that was a racial

10 appeal for people in something like a

11 local election to use the president of

12 the United States as something to sort of

13 vote for or against?

14 MR. NEIMAN: Objection to

15 form.

16 A Yes. On a state level as well.

17 Q Senator, do you remember -- do you know

18 who Tim James was, the gubernatorial

19 candidate in 2010?

20 A Yes.

21 Q Do you recall if he used racial appeals

22 in his 2010 election?

23 A I can't remember.

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1 Q Okay. Do you think the use of racial

2 appeals in Alabama, would you say that's

3 related to the history of discrimination

4 you've described?

5 A Yes.

6 MR. NEIMAN: Objection.

7 A Yes.

8 Q Why would you say that, Senator?

9 A Race is still very powerful in Alabama

10 and people don't even have to decide to

11 say, well, this is about race. It

12 infuses so many things and that -- that

13 long history that reaches from slavery

14 through segregation up to now is

15 powerful.

16 One of the things that I think we

17 have to keep in mind is that for nearly a

18 hundred years, we had state sanction

19 terrorism against black people. Every

20 lynching was a terrorist act. The local

21 didn't do anything about it. The state

22 government didn't anything about it. The

23 United States government didn't do

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1 anything about it. And every lynching

2 was an act of terrorism and they were

3 done publicly and nothing happened as a

4 result of it. That's -- that's a very

5 strong statement, I think.

6 Q Senator, what year were you born?

7 A 1942.

8 Q 1942. And so when you talk about

9 Alabama's history of racial segregation,

10 is that something that you personally

11 experienced?

12 A Oh, yes, yes. I grew up -- I grew up in

13 it. I -- I -- part of -- part of what

14 happened was -- to me -- well, first,

15 we -- we went to segregated schools and

16 the books and the buses and any material

17 we got, we only got what they -- whites

18 had already used. I grew up where you

19 couldn't go to the -- use the -- drink

20 from the same water fountain or use the

21 same bathroom.

22 I grew up where -- where a man

23 threatened me. I was sitting in the car.

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1 I was a terrible child. So I am one of
 2 13 children. My mother -- but she would
 3 sometimes take me with her so I wouldn't
 4 be there to fight with the other children
 5 and I was sitting in the car and --
 6 and -- with the door open. It was in the
 7 summer and -- on the passenger side and a
 8 white woman came by and she was in short
 9 shorts, which was unusual then. I looked
 10 up and then less than five seconds looked
 11 immediately down because I know that
 12 society say I couldn't even look at her.
 13 But a white man saw me so -- just
 14 look up and look down. And he came over.
 15 And when he came over to get at me, I
 16 pulled the door closed, and he was -- the
 17 window was down but he was trying to get
 18 me out of the car and my mother came out
 19 of the store and told him to get away
 20 from me.
 21 And he said that he was going to
 22 teach me a lesson never to look at a
 23 white woman and my mother told him to get

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1 away from me and she used some other
 2 choice words and eventually he -- he
 3 pulled away. This -- this is growing up
 4 in that kind of atmosphere where just to
 5 look up and look down, you know, and --
 6 and he was going to teach me a lesson.
 7 Q Uh-huh. That's sort of indicative of how
 8 African-Americans grew up in Alabama; is
 9 that right, Senator?
 10 MS. MESSICK: Object to
 11 the form.
 12 MR. NEIMAN: Object to the
 13 form.
 14 A Yes. That was a common practice. Let me
 15 just say, when I grew up, they had the
 16 6-ounce Coke bottles and the 12-ounce
 17 Coke bottles and if you go to a store and
 18 you were African-American and asked for
 19 the 6-ounce Coke bottles, that was enough
 20 to get you beaten or whatever. That's
 21 how oppressive it was. Black people were
 22 not supposed to have the 6-ounce Coke
 23 bottles. You could have the 12-ounce

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1 Coke bottles, but not the 6-ounce Coke
 2 bottles.
 3 Q And do you think that given that history
 4 that African-Americans your age or even
 5 younger sort of continue to maybe sort
 6 of -- African-Americans who went through
 7 that, in your experience, do they
 8 remember that kind of feeling of
 9 intimidation and that Alabama state law
 10 required and that society sort of
 11 condoned?
 12 MS. MESSICK: Objection to
 13 the form.
 14 MR. NEIMAN: Object to the
 15 form. Calls for speculation.
 16 A Yes. I know personally it still affects
 17 me all these years later. I know many of
 18 other people who it impact. I know
 19 people who were born well after me that
 20 that intimidation factor is still there.
 21 Q Thank you, Senator. So, Senator, moving
 22 a little bit off topic. I'm sorry for
 23 the abrupt switch in topics there. I

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1 appreciate your testimony.
 2 Alabama now has a photo ID law; is
 3 that correct?
 4 A Yes.
 5 Q Okay. Do you recall when that bill was
 6 passed?
 7 A In 2011.
 8 Q Okay. Do you recall if there was any
 9 debate over that bill?
 10 A There was no debate. As I recall it, the
 11 Republican leadership brought the bill up
 12 and immediately filed a petition to cut
 13 off debate and they held a microphone for
 14 those 20 minutes. We didn't get a chance
 15 to say a word.
 16 Q So there was 20 minutes of debate in
 17 which you were not -- no -- no one except
 18 Republicans were allowed to testify -- or
 19 to speak? Excuse me.
 20 A Well, the rule requires that when a
 21 petition to cut off debate is called you
 22 have to wait 20 minutes before you can
 23 actually vote. But if they continue to

<p style="text-align: right;">Page 89</p> <p>1 hold the microphone, they are the only</p> <p>2 one who talked. I don't remember anybody</p> <p>3 talking other than the person who was at</p> <p>4 the microphone and the sponsor of the</p> <p>5 bill at that time. And so</p> <p>6 African-Americans did not get a chance to</p> <p>7 say one single word in the passage of</p> <p>8 this bill.</p> <p>9 Q In your experience as a legislator, is</p> <p>10 that unusual?</p> <p>11 A Yes, that's unusual.</p> <p>12 Q Have you ever seen that with other bills</p> <p>13 prior to 2011?</p> <p>14 A Not -- not prior to 2011. I don't recall</p> <p>15 that happening. It may have happened one</p> <p>16 or two times, but in 2011 it happened a</p> <p>17 lot.</p> <p>18 Q Okay. So in 2011 it was -- Republicans</p> <p>19 did this a lot, is that what you're</p> <p>20 saying, Senator?</p> <p>21 A Yes. The Republicans were in control of</p> <p>22 the a Alabama Senate and they routinely</p> <p>23 cut off debate without any opportunity</p>	<p style="text-align: right;">Page 91</p> <p>1 Q What race was she?</p> <p>2 A She's white.</p> <p>3 Q She's white. Okay. But she is -- excuse</p> <p>4 me -- so at that time all of the</p> <p>5 Republicans in the legislature in 2011</p> <p>6 were white?</p> <p>7 A All the Republicans in the 2011 session</p> <p>8 of the legislature were white.</p> <p>9 Q Okay.</p> <p>10 A And male.</p> <p>11 Q Okay. Are you aware of any -- in 2011,</p> <p>12 was Alabama still subject to</p> <p>13 preclearance --</p> <p>14 A Yes.</p> <p>15 Q -- under the Voting Rights Act?</p> <p>16 A Yes.</p> <p>17 Q Are you aware of any analysis done to</p> <p>18 determine whether the law would have, you</p> <p>19 know, passed preclearance in 2011?</p> <p>20 A What I am aware of is that we tried to</p> <p>21 get them to submit the law for</p> <p>22 preclearance and the attorney general</p> <p>23 wouldn't submit it. And I am aware that</p>
<p style="text-align: right;">Page 90</p> <p>1 for African-Americans or other Democrats</p> <p>2 to -- to debate.</p> <p>3 Q But pre-2011, when Democrats controlled</p> <p>4 the legislature, were Republicans allowed</p> <p>5 to provide, you know -- to debate an</p> <p>6 issue on the floor of the Senate?</p> <p>7 A There were almost never situations where</p> <p>8 debate did not occur.</p> <p>9 Q Okay. In 2011 when you were in the</p> <p>10 Senate, most of the Democrats, were they</p> <p>11 African-American?</p> <p>12 A Yes. I -- I think in 2011, as I recall,</p> <p>13 there were two white Democrats and there</p> <p>14 were seven black Democrats.</p> <p>15 Q And that means there were about 25 or so</p> <p>16 Republicans; is that right?</p> <p>17 A I can't recall whether -- yes, yes.</p> <p>18 Q Okay.</p> <p>19 A I know Harri Anne Smith -- I'm not sure</p> <p>20 what year it was, but she was a</p> <p>21 Republican and they denied her the right</p> <p>22 to run as a Republican and she ran as an</p> <p>23 independent.</p>	<p style="text-align: right;">Page 92</p> <p>1 we then contacted the U.S. Justice</p> <p>2 Department to try to get them to some</p> <p>3 kind of way make Alabama submit the law</p> <p>4 for preclearance and we were unsuccessful</p> <p>5 in all of our attempts.</p> <p>6 Q And you say "we," Who do you mean?</p> <p>7 A I mean me in particular and Dr. Joe Reed</p> <p>8 in particular. We -- we both discussed</p> <p>9 it. We both went up to the Justice</p> <p>10 Department on some other matters and</p> <p>11 talked with people about it.</p> <p>12 Q And who is Joe Reed?</p> <p>13 A Joe Reed is the head of the Alabama</p> <p>14 Democratic Conference commonly known as</p> <p>15 ADC.</p> <p>16 Q And what is ADC?</p> <p>17 A It's an arm of the Democratic Party.</p> <p>18 It's the minority caucus in the Alabama</p> <p>19 Democratic Party.</p> <p>20 Q Is it safe to say that the ADC is a</p> <p>21 representative of black Democrats or at</p> <p>22 least one wing of the black Democratic --</p> <p>23 excuse me -- of the Democratic party and</p>

<p style="text-align: right;">Page 93</p> <p>1 black voters in the Democratic party?</p> <p>2 A Yes.</p> <p>3 Q Are there other groups of black Democrats</p> <p>4 other than the ADC?</p> <p>5 A There are other groups. I'm associated</p> <p>6 with Alabama New South, but it's not</p> <p>7 limited to black people and is not</p> <p>8 limited to Democrats.</p> <p>9 Q Okay.</p> <p>10 A There are Republicans and independents</p> <p>11 and there's whites as well. But it's</p> <p>12 certainly majority African-American. And</p> <p>13 then you have groups like the Jefferson</p> <p>14 County Citizen Coalition up in Birmingham</p> <p>15 and some others.</p> <p>16 Q Okay. So you mentioned that you and</p> <p>17 Mr. Reed went to the Department of</p> <p>18 Justice and had requested that they --</p> <p>19 strike that --</p> <p>20 You mentioned that you went to the</p> <p>21 attorney general of Alabama and asked him</p> <p>22 to submit the photo ID law for</p> <p>23 preclearance; is that right?</p>	<p style="text-align: right;">Page 95</p> <p>1 they couldn't put it into effect without</p> <p>2 it being submitted.</p> <p>3 Q Okay. Do you know why Alabama refused to</p> <p>4 submit the law for preclearance?</p> <p>5 MS. MESSICK: Object to</p> <p>6 the form.</p> <p>7 A They were -- my understanding is that</p> <p>8 they were waiting on the Shelby versus</p> <p>9 Holder case.</p> <p>10 Q What's your basis for that belief,</p> <p>11 Senator?</p> <p>12 A Well, as I recall the law, it -- it --</p> <p>13 well, as I recall the law, it -- it would</p> <p>14 have required preclearance. It wasn't</p> <p>15 submitted and the day after the Shelby</p> <p>16 versus Holder case was submitted, either</p> <p>17 the day of or the day after, there was an</p> <p>18 announcement from the secretary of state</p> <p>19 that it would be implemented.</p> <p>20 Q Do you recall if the secretary of state</p> <p>21 issued rules after Shelby County for the</p> <p>22 implementation of the voter ID bill?</p> <p>23 A I recall there being a problem of trying</p>
<p style="text-align: right;">Page 94</p> <p>1 MS. MESSICK: Object to</p> <p>2 the form.</p> <p>3 A I don't -- I recall us trying to get them</p> <p>4 to do it. I don't remember going to him.</p> <p>5 Q Okay.</p> <p>6 A We tried to get the department to submit</p> <p>7 it.</p> <p>8 Q Okay. Do you recall how you tried to get</p> <p>9 the department -- the Alabama attorney</p> <p>10 general to submit it?</p> <p>11 A I -- I -- I recall some telephone calls</p> <p>12 asking him to submit it. I didn't talk</p> <p>13 directly with the attorney general. I</p> <p>14 don't remember the details.</p> <p>15 Q Okay.</p> <p>16 A But I do recall that they wouldn't submit</p> <p>17 it and I do recall we -- we actually, I</p> <p>18 think, on two occasions we was up at the</p> <p>19 justice department and we asked them</p> <p>20 wasn't there some kind of way to ask them</p> <p>21 to go ahead and submit it. Their</p> <p>22 response was that they -- they couldn't</p> <p>23 make them submit it. They couldn't --</p>	<p style="text-align: right;">Page 96</p> <p>1 to get them to do that. So I don't</p> <p>2 recall it being done right away. I</p> <p>3 recall some -- some -- a range of efforts</p> <p>4 of trying to get them to submit the</p> <p>5 rules.</p> <p>6 Q Okay. But to your knowledge Alabama did</p> <p>7 not attempt to enforce the photo ID law</p> <p>8 until after Shelby County; is that</p> <p>9 correct?</p> <p>10 A That's correct.</p> <p>11 Q Okay. Senator, why were you trying to</p> <p>12 get Alabama to submit the bill for</p> <p>13 preclearance under section 5?</p> <p>14 A Because I -- I was convinced that it</p> <p>15 would not meet the -- the requirements of</p> <p>16 section 5 and it would be rejected and we</p> <p>17 didn't want it just hanging out there.</p> <p>18 Q In your experience, have you ever seen --</p> <p>19 has it ever been the case that Alabama</p> <p>20 has waited several years to submit a law</p> <p>21 for preclearance?</p> <p>22 A I don't recall them doing that before.</p> <p>23 Q Okay. And you said that you didn't</p>

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1 believe that the bill would have been --
2 A Precleared.
3 Q -- that it wouldn't have been precleared.
4 What -- why did you believe that?
5 MR. NEIMAN: Object to the
6 form.
7 MS. MESSICK: Objection to
8 form.
9 A I believe that the way the bill was
10 constructed, that from my experience with
11 the Justice Department over -- over many
12 years that it would not have been
13 precleared.
14 Q So let's talk a little bit about the
15 bill, Senator. Is it your understanding
16 that the 2011 voter ID bill required
17 people to show a photo ID in order to
18 vote?
19 A Yes.
20 Q Okay. And when you talked a little bit
21 about the sort of procedures leading to
22 the passage of the bill, were you allowed
23 to offer any amendments to the photo ID

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1 bill as it was introduced?
2 A No.
3 Q Okay. Were any members of the Alabama
4 legislative black caucus allowed to offer
5 any amendments to the bill?
6 A No.
7 Q After -- okay.
8 Do you believe that there could have
9 been -- well, strike that.
10 So you mentioned that the bill as
11 constructed you don't believe would have
12 passed preclearance and it's right that
13 the bill required photo ID to vote. Is
14 it -- strike that.
15 Do you believe that
16 African-Americans are less likely to have
17 photo ID than our white voters --
18 MS. MESSICK: Object to
19 the form.
20 Q -- in Alabama?
21 MS. MESSICK: Object to
22 the form.
23 A Yes.

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1 Q Do you believe that was true in 2011?
2 MS. MESSICK: Object to
3 the form.
4 A Yes.
5 Q You -- let me strike that.
6 So in 2011 you believe think that
7 African-Americans were also less likely
8 to have photo ID?
9 MR. NEIMAN: Object to the
10 form.
11 MS. MESSICK: Object.
12 A Yes.
13 Q Okay. What's the basis for that belief?
14 A Well, photo ID, the most common form of
15 photo ID is driver's license and -- and
16 there's a much higher percentage of -- of
17 white people who have cars and drive and,
18 therefore, have photo ID or some kind of
19 government ID.
20 And if you are black and poor, then
21 you're less likely to have a car and less
22 likely to have a driver's license. And
23 so there's a higher percentage of

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1 African-Americans who do not have that
2 kind of ID. And so you would have to
3 get -- go and get photo ID and -- and
4 from talking to black people over the
5 years, since -- since it's been
6 implemented, black people are very
7 reluctant to go get photo ID.
8 And they -- they say, well, if
9 you've got a photo ID to vote, you don't
10 use it but once every couple of years and
11 that means you've got to keep up with it.
12 It's not like a driver's license that you
13 keep all the time and use for all kinds
14 of other things.
15 And -- and people said that if you
16 have two photo IDs, that you may have
17 committed a crime just having them, and
18 not trying to use them and you could end
19 going to jail. So it was all kinds of
20 problems about that.
21 Q Do you -- so it's your understanding,
22 Senator, that under the photo ID law, you
23 can be prosecuted for having a voter ID

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1 when you also have another form of photo
2 ID; is that correct?
3 A That's correct.
4 Q Okay. Do you believe that that
5 requirement in the bill is intimidating
6 for African-American voters?
7 MS. MESSICK: Objection to
8 form.
9 MR. NEIMAN: Objection to
10 form.
11 A I know it's intimidating. I've talked to
12 people about it. They said they can't
13 risk having it. If they have a photo ID
14 and they come along and get a driver's
15 license, they've already committed a
16 crime. That's very intimidating.
17 Q Do you think that that intimidation is
18 more true for African-Americans than it
19 may be for other groups?
20 MS. MESSICK: Objection to
21 form.
22 MR. NEIMAN: Objection to
23 form.

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1 A Yes. It's more intimidating because we
2 have a history of being intimidated
3 around voting. All kinds of actions were
4 taken to prevent us from voting, so
5 that's -- that's a part of that history.
6 And also there was a provision in the
7 photo ID law that says if you provide
8 some wrong information you could even
9 provide it accidentally, and you'd end up
10 committing a crime. So there was a great
11 reluctance among African-Americans even
12 when we made efforts to try to get black
13 folks to go and do it, we didn't have
14 much success on that at all. So we were
15 also concerned.
16 Q Okay. Thank you, Senator.
17 So you mentioned that
18 African-Americans were less likely to
19 have things like driver's license or
20 other government-issued IDs; is that
21 correct?
22 A Yes.
23 Q Do you believe that African-Americans are

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1 also less likely to have a birth
2 certificate?
3 MS. MESSICK: Objection to
4 form.
5 MR. NEIMAN: Objection to
6 form.
7 A Yes.
8 Q Why is that?
9 A Because more of us were delivered by
10 midwives and I -- I run into people all
11 the time, African-Americans all the time,
12 who don't -- don't really know the date
13 of their birth. They -- because of even
14 if they weren't delivered by a midwife,
15 they may very well have been delivered by
16 a doctor, but that was done in a
17 situation where there were not proper
18 records kept.
19 So just definitely a higher
20 percentage of African-Americans and --
21 and there was a time when the whole thing
22 with hospitals and segregation and all of
23 that came into play.

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1 Q So you mentioned hospitals and
2 segregation. Why do you think that's
3 connected to the birth certificate issue?
4 MR. NEIMAN: Objection to
5 form?
6 A Because if you went to a hospital, you
7 were more likely to have all those kinds
8 of records because they had more people
9 to hand -- to handle that. But if you
10 was delivered midwife or even delivered
11 by a doctor not at a midwife, not at a
12 hospital, then the chances of your birth
13 certificate getting -- the whole process
14 getting completed was reduced.
15 Q Is it your understanding that there were
16 fewer black hospitals at -- during this
17 segregation -- the era of segregation
18 that black hospitals?
19 A Yes.
20 Q Okay. And do you think that contributed
21 to what you're describing here, the lack
22 of black people being born in hospitals?
23 MR. NEIMAN: Objection to

<p style="text-align: right;">Page 105</p> <p>1 form.</p> <p>2 A Yes.</p> <p>3 Q Senator, you also -- you were testifying</p> <p>4 earlier about sort of African-American</p> <p>5 access to things like vehicles and that</p> <p>6 being related to their access of driver's</p> <p>7 license and other kinds of photo</p> <p>8 identification. Why do you think</p> <p>9 African-Americans are less likely to have</p> <p>10 vehicles?</p> <p>11 MS. MESSICK: Objection.</p> <p>12 MR. NEIMAN: Objection to</p> <p>13 form.</p> <p>14 A Well, I grew up poor. I had firsthand,</p> <p>15 experience, nine children, a mother and</p> <p>16 father. The rate of poverty is higher</p> <p>17 among African-Americans and also some of</p> <p>18 those who poverty may not be it, but</p> <p>19 being able to read and write and all of</p> <p>20 those kinds of things impact it. So the</p> <p>21 key thing, though, is that if you --</p> <p>22 if -- if you own a car, then you are</p> <p>23 likely -- much more likely to have it.</p>	<p style="text-align: right;">Page 107</p> <p>1 aspect of society. There were jobs that</p> <p>2 we couldn't get. I mean, we literally</p> <p>3 had to pro test to be able to get jobs in</p> <p>4 stores and various kinds of things. So</p> <p>5 it's -- segregation -- the brooks of</p> <p>6 segregation has a great deal to do with</p> <p>7 that poverty and the driver's license and</p> <p>8 owning a car and owning other things.</p> <p>9 Q Thank you, Senator.</p> <p>10 Thank you, Senator. Do you believe</p> <p>11 that other legislators were aware of this</p> <p>12 history that you're describing at the</p> <p>13 time that the photo ID law was passed?</p> <p>14 MS. MESSICK: Objection to</p> <p>15 form.</p> <p>16 MR. NEIMAN: Object to the</p> <p>17 form.</p> <p>18 A Other legislatures were aware of it. We</p> <p>19 were virtually united in opposition to it</p> <p>20 and -- and we knew that this was just a</p> <p>21 way to suppress the African-American vote</p> <p>22 to reduce the number of African-Americans</p> <p>23 who might vote.</p>
<p style="text-align: right;">Page 106</p> <p>1 But it also affects some young people and</p> <p>2 some old people but African-Americans it</p> <p>3 had a high disproportionate impact.</p> <p>4 Q Why are African-Americans more likely to</p> <p>5 be poor?</p> <p>6 MR. NEIMAN: Object to the</p> <p>7 form?</p> <p>8 MS. MESSICK: Object to</p> <p>9 the form?</p> <p>10 A Well, I -- I grew up poor. I had</p> <p>11 firsthand experience. Nine children, a</p> <p>12 mother, and father lived in a three room</p> <p>13 house and I don't mean a three bedroom</p> <p>14 house. I mean a three-room house. We</p> <p>15 didn't have electricity. We didn't have</p> <p>16 an indoor toilet. In fact, we didn't</p> <p>17 even have an outdoor toilet. We had a</p> <p>18 china berry tree that you go behind and</p> <p>19 that was directly connected to racial</p> <p>20 segregation and wasn't just true for me.</p> <p>21 It was true for a lot of other</p> <p>22 African-Americans. So out of that also</p> <p>23 sprung the lesser education. So every</p>	<p style="text-align: right;">Page 108</p> <p>1 Q Why do you think the legislature wanted</p> <p>2 to reduce the number of African-Americans</p> <p>3 that were able to vote?</p> <p>4 MR. NEIMAN: Object to the</p> <p>5 form?</p> <p>6 MS. MESSICK: Object to</p> <p>7 the form?</p> <p>8 A It was -- it was -- it was -- it was a</p> <p>9 matter of race. It was a matter of -- at</p> <p>10 that time, Republicans in Alabama were</p> <p>11 becoming more competitive in the 90s. In</p> <p>12 the '80s, there had not been a lot of</p> <p>13 competitive situations between</p> <p>14 African-Americans -- I mean between</p> <p>15 Republicans and Democrats. And</p> <p>16 Republicans were -- Democrats were --</p> <p>17 well, African-Americans were basically in</p> <p>18 the Democratic party and so I -- to me it</p> <p>19 wasn't anything different. It was a</p> <p>20 continuation of an effort to try to deny</p> <p>21 African-Americans the right to vote, to</p> <p>22 try to suppress it, to try to reduce it,</p> <p>23 to try to intimidate it. I had seen it</p>

<p style="text-align: right;">Page 109</p> <p>1 during the -- even after the 1965 Voting 2 Rights Act passed, I had seen it 3 continuously over and over again. So it 4 was part of the pattern. 5 Q Do you believe it benefited Republicans 6 to have fewer African-Americans voting? 7 MS. MESSICK: Germany nee 8 objection to form? 9 A Yes. 10 Q Whiny nee objection to form. 11 A Because there were almost no 12 African-Americans who were Republicans. 13 The huge majority of African-Americans 14 were Democrats and so the less 15 African-Americans that voted, the more -- 16 the greater their chances of winning. 17 And -- and this continued even after 18 Republicans already held every -- every 19 statewide office from the judiciary to 20 attorney general to the governor to all 21 of these. The effort was continued. So 22 sometimes it wasn't just a matter of 23 winning. It went beyond that. It tied</p>	<p style="text-align: right;">Page 111</p> <p>1 Q Did you notify them of this before the 2 passage -- did you notify Republicans 3 before the pass and of the photo ID bill 4 in 2011? 5 A We didn't do any formal notification. In 6 any discussion, we would say that this is 7 unacceptable and this is why. 8 Q And you would have this individual 9 discussions with Republican legislatures; 10 is that right? 11 A Yes. Or when bills would come up like 12 this in the community -- in the committee 13 there was a chance to say something about 14 it. But there was no opportunity on the 15 floor of the Alabama Senate. 16 Q Okay. 17 MR. ROSS: Take a 18 five-minute break. 19 MS. MESSICK: Sure. 20 VIDEOGRAPHER: Going off 21 the record at 11:58. 22 (At which time, a break 23 was held.)</p>
<p style="text-align: right;">Page 110</p> <p>1 into this long history of enslavement and 2 segregation. 3 Q You testified that African-Americans were 4 aware that legislatures were aware of the 5 fact that African -- or at least -- 6 strike that. 7 You testified that African-American 8 legislatures were more -- sorry. 9 You testified that African-American 10 legislators believed that blacks were 11 less likely than whites to have photo ID; 12 is that right. 13 A Yes. 14 MR. NEIMAN: Objection. 15 MS. MESSICK: Object to 16 the form. 17 Q Did African-American legislatures make 18 white legislatures aware of that? 19 A We certainly did in individual 20 discussions. We couldn't do it when the 21 bill came up because we didn't get a 22 chance to talk. We didn't get a chance 23 to debate.</p>	<p style="text-align: right;">Page 112</p> <p>1 VIDEOGRAPHER: This begins 2 disk three. Going back on the 3 record at 1:31. 4 MR. ROSS: Senator 5 Sanders, when we were -- before 6 we went off the record we were 7 talking a little bit about the 8 photo ID law that was passed in 9 2011; is that right. 10 A Yes. 11 Q And you mentioned a decision, Shelby 12 County? 13 A Shelby County versus Holder, yeah. 14 Q Do you remember what that decision was? 15 A Yes. Shelby struck down, I think, 16 article -- no -- section 4B which 17 immobilized section 5 in the Voting 18 Rights Act. 19 Q So did that suspended preclearance? 20 A Yes. 21 Q Okay. And so is it your understanding 22 that Alabama no longer has to seek 23 preclearance for its voting laws?</p>

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1 A That's my understanding.
2 Q Okay. Do you recall when that decision
3 came out?
4 A I think it was in June of 2013.
5 Q Okay.
6 A And it might have been June the 25th.
7 But I am not exactly.
8 Q And based on your experience, what's been
9 the effect of the Shelby County decision
10 here in Alabama?
11 MS. MESSICK: Objection to
12 the form.
13 A First, voter ID is certainly one -- one
14 impact on it. Second, the way the
15 changes in how criminal cases -- I mean,
16 not criminal cases -- former imprisoned
17 persons are handled and -- and there's
18 also -- no. That was before. In the
19 legislature when discriminatory laws
20 would come up, we would we remind them
21 that those would not be precleared by the
22 U.S. Justice Department and now that's no
23 longer the case. And a lot of the ones

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1 that they would bring up, they would fall
2 by the wayside not necessarily because
3 the votes wasn't there but because they
4 would not be precleared. That's not
5 the -- the case now. There's nothing to
6 stop those who would change the laws in
7 various ways to oppress -- to suppress
8 the right to vote for African-Americans.
9 MS. MESSICK: Object to
10 the form of the answer.
11 Q Senator, am I correct that the Alabama
12 legislature sits for four years once the
13 senators and representatives have been
14 elected?
15 A Yes.
16 Q So --
17 A Generally speaking unless federal court
18 intercedes.
19 Q Okay. And it has been the case that
20 Alabama has been required to have, you
21 know, special elections and things like
22 that for its legislature because of
23 federal court intervention?

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1 A Yeah. I know 1982 would have been the
2 regular election. In 1983 that was one
3 of those times.
4 Q Okay. Senator, so the legislature, the
5 state senators and state representatives,
6 that are elected in 2010, they would have
7 sat from about -- the same legislature
8 would have sat from about 2010 -- early
9 2011 until 2014, early 2015; is that
10 right?
11 A It would have sat from November of 2010
12 to November of 2014.
13 Q Okay. And that would have been the same
14 legislature that passed the photo ID
15 bill; is that right?
16 A That's correct.
17 Q Okay. Do you recall a 2011 bill called
18 House Bill 56?
19 A Yes.
20 Q Is it commonly referred to as HB 56?
21 A Yes.
22 Q Do you recall what the purpose of that --
23 or what that bill was?

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1 A It was a bill that supposedly was
2 directed at -- at immigrants who were
3 undocumented but it ended up going a lot
4 further than that. In fact, it had
5 provisions in there like on voting that
6 will end up impacting not just immigrants
7 but -- so, yes, HB 56 was directed at
8 undocumented immigrants but it impacted a
9 lot more than that.
10 Q Do you recall what the stated purpose of
11 HB -- well, is it right that you're
12 stating the purpose of HB 56 was to
13 undocumented immigrants?
14 A Yes.
15 Q Do you believe the bill may have had
16 other purposes?
17 MS. MESSICK: Object to
18 the form.
19 MR. NEIMAN: Object to the
20 form.
21 A Well, the bill had other purposes and had
22 other impacts. The bill ended up
23 impacting the average person even going

<p style="text-align: right;">Page 117</p> <p>1 to get a tag and things like that and it</p> <p>2 had the voting provision in there where</p> <p>3 they had to have different kinds of</p> <p>4 documents. People who were -- if</p> <p>5 somebody decided that you were -- you</p> <p>6 might be an undocumented person, then you</p> <p>7 had to have proof of it. You had to have</p> <p>8 some cards. That means anybody could be</p> <p>9 stopped. I could be stopped and asked</p> <p>10 for my papers, which I wouldn't have. I</p> <p>11 wouldn't have proof of citizenship. I</p> <p>12 may have a driver's license, but I</p> <p>13 wouldn't have proof of citizenship on me.</p> <p>14 Q Is it your understanding -- does Alabama</p> <p>15 driver's license indicate citizenship on</p> <p>16 it?</p> <p>17 A It does not.</p> <p>18 Q Okay. And it's your recollection that HB</p> <p>19 56 contained a documentary citizenship</p> <p>20 requirement for voting -- for registering</p> <p>21 to vote?</p> <p>22 A Yes.</p> <p>23 Q Okay. Do you recall whether you opposed</p>	<p style="text-align: right;">Page 119</p> <p>1 for HB 56 as well as the photo ID bill in</p> <p>2 2011 and -- well, strike that.</p> <p>3 Are there any Latino representatives</p> <p>4 in the Alabama legislature?</p> <p>5 A Not that I know of.</p> <p>6 Q Okay.</p> <p>7 A They might be passing.</p> <p>8 Q Okay. Do you know if there is a Latino</p> <p>9 community in Alabama?</p> <p>10 A Yes. There are some Latinos in Alabama.</p> <p>11 Q Okay. Did you -- were you aware of</p> <p>12 Latino sort of the community opposition</p> <p>13 to HB 56?</p> <p>14 A Yes. I've worked with some people who</p> <p>15 were opposed with it, some Latinos and</p> <p>16 some others who were opposed to it, yes.</p> <p>17 Q Okay. Latino organizations?</p> <p>18 A Yes.</p> <p>19 Q Okay. Have you heard of the Hispanic</p> <p>20 Interest Coalition of Alabama?</p> <p>21 A HICA, yes.</p> <p>22 Q Do you know if they were opposed to HB</p> <p>23 56?</p>
<p style="text-align: right;">Page 118</p> <p>1 HB 56?</p> <p>2 A Yes. But as I recall, HB 56 was also one</p> <p>3 of those that they passed without any</p> <p>4 opportunity for the debate. Again --</p> <p>5 MS. MESSICK: Object to</p> <p>6 the form of the answer.</p> <p>7 A Again, they brought it up and filed a</p> <p>8 petition for closure. And they held the</p> <p>9 microphone, so we didn't get a chance to</p> <p>10 say a word.</p> <p>11 MS. MESSICK: Object to</p> <p>12 the form of the answer.</p> <p>13 Q And when you say we didn't get to say a</p> <p>14 word?</p> <p>15 A African-Americans.</p> <p>16 Q Do you recall if other African-American</p> <p>17 legislators opposed HB 56?</p> <p>18 A Yes.</p> <p>19 Q Okay. So let me rephrase it. It's your</p> <p>20 understanding that other African-American</p> <p>21 legislators opposed HB 56?</p> <p>22 A Yes.</p> <p>23 Q Okay. You described the use of closure</p>	<p style="text-align: right;">Page 120</p> <p>1 A They were definitely opposed to it.</p> <p>2 Q Okay. And there may have been other</p> <p>3 Latino organizations in Alabama that were</p> <p>4 opposed?</p> <p>5 A Yes.</p> <p>6 Q Okay. Do you recall why they were</p> <p>7 opposed to HB 56?</p> <p>8 MS. MESSICK: Object to</p> <p>9 the form.</p> <p>10 A I do recall why they said they were.</p> <p>11 They were opposed to it because it was</p> <p>12 oppressive to not just people who were</p> <p>13 undocumented, it was oppressive to</p> <p>14 Hispanic people in general. It had --</p> <p>15 one provision I recall them simply</p> <p>16 talking about is that how it not only how</p> <p>17 it affected them but affected others. If</p> <p>18 somebody was on the road or the highway</p> <p>19 and they had broken down, their car had</p> <p>20 broken down, if you picked them up and</p> <p>21 took them somewhere to get some help, you</p> <p>22 could be arrested for that and I believe</p> <p>23 that was a felony. You might be -- if it</p>

<p style="text-align: right;">Page 121</p> <p>1 wasn't a felony, it might have been a 2 third-class misdemeanor. I don't 3 remember. 4 But they were -- churches was 5 against it because it would impact them 6 if somebody would simply go and visit the 7 church and they tried to do the 8 humanitarian thing by giving them food. 9 They would -- it would impact them 10 adversely. And next they felt like it 11 was going to drive Latinos out of 12 Alabama, not just undocumented but other 13 Latinos, that they would end up leaving, 14 having to leave their home or leave their 15 property just to get out, leave their 16 jobs and leave their families. 17 Q Senator, were you present for the 18 legislative debates about HB 56 in the 19 Senate? 20 A I was present in the Senate, but there 21 was no debate on HB 56. 22 Q Do you recall if any legislators used 23 terms like anchor babies when describing</p>	<p style="text-align: right;">Page 123</p> <p>1 enforced? 2 A Yes. I think -- as I recall, there might 3 have been -- I know there were two pieces 4 of litigation, might have been three 5 different pieces of litigation that was 6 filed, and I recall that many of the 7 provisions were -- were either declared 8 unconstitutional or some kind of 9 resolution was brought that removed them 10 or limited their impact. 11 Q Do you know if the documentary proof of 12 citizenship requirement for voting was 13 ever enforced? 14 A I don't recall it being enforced because 15 it, again, wasn't precleared. So when 16 the issue came up, it would have been 17 after June in 2013. 18 Q The bill was passed in 2011; correct? 19 A Yes. 20 Q And Alabama was still subject to 21 preclearance at that time? 22 A Correct. 23 Q Is it your testimony, as far as you know,</p>
<p style="text-align: right;">Page 122</p> <p>1 their support for HB 56? 2 A I don't specifically recall that. 3 Q Do you recall legislators talking about 4 Latinos when specifically discussing HB 5 56 rather than immigrants more broadly? 6 A Well, not on HB 56 because there wasn't 7 any discussion. They just brought it up 8 in passing but a -- a prior version of 9 that had been introduced, I believe, 10 two -- two sessions -- the two -- two 11 prior sessions in maybe '9 and '10 when 12 Democrats were in control and there was 13 certainly discussion around that at that 14 time. 15 Q Around Latinos? 16 A Yes. 17 Q Okay. Do you know whether HB 56 was 18 enacted? 19 A Yes. 20 Q It was? 21 A It was. 22 Q Okay. Do you recall if there was any 23 litigation to stop HB 56 from being</p>	<p style="text-align: right;">Page 124</p> <p>1 HB 56 was not submitted for preclearance? 2 MR. NEIMAN: Objection to 3 form. 4 MS. MESSICK: Objection to 5 form. 6 A Okay. It was not submitted for 7 preclearance. That was also one of the 8 issues we raised with the Justice 9 Department. 10 Q As far as you know, the bill was never 11 precleared; is that correct? 12 A As far as I know, yes. 13 Q Okay. Senator, did -- during the 14 2010-2014 legislative session, did the 15 Alabama legislature also do its, you 16 know, every 10-year reapportionment? 17 MS. MESSICK: Objection to 18 the form of the question. 19 A Yes. 20 Q Okay. Do you recall when the legislature 21 passed it reapportionment bills? 22 A I -- I don't recall. For some reason it 23 seemed to me that it might have been</p>

<p style="text-align: right;">Page 125</p> <p>1 2012, but I don't recall the exact year 2 but I do recall that -- that one was 3 passed. 4 Q Okay. I'll represent to you 2012 was 5 when the bill was passed. So do you 6 recall whether there was any litigation 7 challenging the 2012 reapportionment? 8 A Yes. 9 MS. MESSICK: Object to 10 the form of the question. 11 Q Do you recall -- do you know the name of 12 that litigation? 13 A It was -- I don't recall the exact name 14 but I know it was brought by the Alabama 15 legislative black caucus, one lawsuit, 16 and another one was brought by the 17 Alabama Democratic Conference and I know 18 that they were combined and litigated 19 together. 20 Q Do you recall what the claims were in 21 that litigation? 22 A Yes. Essentially that the districts were 23 configured in a way to reduce the</p>	<p style="text-align: right;">Page 127</p> <p>1 passed in 2011, do you recall if there 2 was a provision that allowed people to 3 vote without showing photo ID in the law? 4 A Yes. The -- what the provision I think 5 simply said that if there were two people 6 in the polls that -- that knew somebody 7 then they would -- they would -- they 8 would be able to vote. They could sign 9 something and be able to vote and I was 10 extremely concerned about that provision 11 because I had had an experience here in 12 Dallas County. 13 I went to the polls to vote and they 14 told me my name was not on the ballot and 15 so the people at the polls say, well, we 16 know you. Let us call the voter 17 registrar's office. So they call them 18 and I knew the people at the voter 19 registrar's office. They said my name 20 wasn't on the list, that I must have 21 moved. And I told them that I had been 22 in the same place for -- since 1978 in 23 the same house, hadn't moved a thing. I</p>
<p style="text-align: right;">Page 126</p> <p>1 black -- the voting power of 2 African-Americans, that they packed some 3 districts and they kind of reduced the 4 percentage of African-Americans in what 5 would have been called the influence 6 districts. The vote, I think that was 7 the heart of it. 8 Q Do you recall if the Alabama black caucus 9 was successful in that litigation? 10 A Yes. The case, as I recall, was tried 11 before a three-judge panel and that it 12 went all the way to the Supreme Court and 13 the Supreme Court, as I recall, said they 14 have used the wrong standard and sent it 15 back and -- and in the last couple of 16 weeks, the panel found that maybe three 17 Senate districts and nine House districts 18 were wrongly district and that was in 19 violation of the constitution in the 20 drawing of the district. 21 Q Okay. Thank you, Senator. 22 Senator, so the photo ID -- going 23 back to the photo ID bill, when it was</p>	<p style="text-align: right;">Page 128</p> <p>1 had voted in every election. I had run 2 in at least 10 different elections. And 3 so then they put me on the phone with the 4 voter registrar and said -- and I talked 5 to them and they said, no, you're -- 6 you're not on there, you're going to -- 7 you can vote in -- not an absent -- not a 8 challenge ballot. You can vote a 9 provisional ballot and then I decided I 10 wasn't going to vote a provisional 11 ballot. 12 But then the issue that was before 13 us, then I started thinking what if loses 14 by one vote? So I went and decided go 15 ahead and vote on a provisional ballot. 16 I was the state senator. They knew me. 17 I had voted in every election. They knew 18 that. In addition for running for 19 Senate, I ran for Congress. I also ran 20 for delegates for the Democratic party. 21 So -- but they simply wouldn't let me 22 vote. 23 That's why I was very concerned</p>

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1 about that provision and I knew how
2 they -- because here in Dallas County,
3 they had literally stacked the election
4 officials. So that -- that provision
5 concerned me greatly.
6 MS. MESSICK: Object to
7 the form of the answer.
8 Q When you say "they had stacked the
9 election officials," who are they?
10 A Well, the probate judge essentially made
11 those decisions.
12 Q And is your concern then, to summarize
13 what you said, that the election
14 officials are the ones who get to decide
15 who is allowed to vote or not; is that
16 correct?
17 A Yes.
18 MR. NEIMAN: Object to the
19 form.
20 A Yes, and I'm concerned about that. But
21 I'm concerned that -- that most of the
22 election officials are white throughout
23 the state. I'm concerned that they will

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1 decide that whites can -- they know them
2 and they will let them do it and they
3 will decide that blacks cannot vote,
4 whether they know them or not. So I'm
5 concerned that that provision will add to
6 the discriminatory impact of the bill.
7 Q Senator, do you recall ever raising this
8 issue with the Alabama Secretary of
9 State's office?
10 A Yes. I -- I -- I do recall raising it.
11 Q Okay. Did you ever meet with the
12 secretary of state about that issue?
13 A Yes.
14 Q Do you remember approximately when that
15 was?
16 A It might have been in 2014. I can't
17 remember precisely, but I think it might
18 have been in 2014.
19 Q And do you recall whether the Secretary
20 of State addressed your concerns about
21 the positively identified provision?
22 A What I recall is that my concerns were
23 not -- not addressed to any satisfaction

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1 at all.
2 Q Okay. Senator Sanders, have you ever
3 heard of mobile ID units?
4 A Yes.
5 Q What are those?
6 A The secretary of state would send out a
7 mobile unit to do voter ID -- to be able
8 to give voter ID, but I -- I considered
9 that was just a public relation mechanism
10 because very few were actually
11 registered.
12 And when they would set a time,
13 there was very little public notice of
14 it. They may spend two hours there and
15 then go ahead. And if you count all of
16 the ones that they did, it was just
17 several thousands across the entire
18 state. So I was familiar with them, but
19 I was also familiar with it as being most
20 ineffective.
21 Q Senator, I'm going to introduce
22 Plaintiff's Exhibit Number 5. It's an
23 e-mail from the defendants' production,

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1 DEF 00056537.
2 (Plaintiff's Exhibit 5 was
3 marked for
4 identification.)
5 Q I'll get you a copy, sir. Take a moment
6 to review.
7 (At which time, the
8 witness reviews the
9 exhibit.)
10 A All right.
11 Q Senator Sanders, is your name on this
12 e-mail -- this chain of e-mails, I should
13 say?
14 A Let me look again. Yes. I was cc'ed a
15 copy along with Benard Simelton, and
16 Brandon Fountain, Scott Douglas, and
17 Brian Haygood.
18 Q Senator, do you know who those gentlemen
19 are that you just listed?
20 A Yes.
21 Q Who are they?
22 A Benard Simelton is the state president of
23 the NAACP. Scott Douglas is the

<p style="text-align: right;">Page 133</p> <p>1 executive director of the Greater 2 Birmingham Ministry. Brian Haygood was 3 formerly with the Legal Defense Fund and 4 he -- and he is now with another 5 organization, I believe, in New Jersey. 6 And Brandon Fountain, I can't pull it up 7 right now but I do know him. 8 Q Okay. Senator, looking at the second 9 page of this document, there's an e-mail 10 from myself to Justice Brown cc'ing you 11 and the gentlemen you just named. The 12 subject line is "Mobile Unit 13 Suggestions." Is it right -- it lists 14 here -- it says "Justice Brown, the 15 Alabama NAACP, Greater Birmingham 16 Ministries, Save Ourselves Coalition, and 17 the NAACP Legal Defense fund. Thank you 18 for being with us on Friday." 19 Is it -- does that refresh your 20 recollection of when there was a meeting 21 with the Secretary of State's Office? 22 A Yes. 23 Q Okay. So that would have been</p>	<p style="text-align: right;">Page 135</p> <p>1 Brown -- I see a cc where -- but I 2 don't -- from my recollection, I don't 3 recall. 4 Q Okay. Thank you, Senator. 5 So is it correct, then, that you 6 have suggested mobile unit locations to 7 the Alabama Secretary of State? 8 A I was a part of trying to determine some 9 places to make those suggestions, yes. 10 Q Senator Sanders, do you know whether 11 anyone ever tried to -- from the 12 Secretary of State's Office tried to 13 determine how many voters do not have 14 photo ID? 15 A No, I don't recall them making a 16 determination of that. I recall some 17 discussion about trying to get that done, 18 but I don't recall them doing it. 19 Q Let me hand you Plaintiff's 6 again from 20 the defendant's production 000-2698. 21 (Plaintiff's Exhibit 6 was 22 marked for 23 identification.)</p>
<p style="text-align: right;">Page 134</p> <p>1 approximately September of 2014? 2 A Yes. 3 Q Senator, what is the Save Ourselves 4 Coalition? 5 A Save Ourselves Coalition is really save 6 ourselves movement for justice and 7 democracy. It is a coalition of 40-some 8 organizations that's interested in 9 justice issues and in democracy. And 10 it's been in active Alabama for several 11 years, maybe six years or so. 12 Q Does this e-mail suggest mobile unit 13 locations for the secretary of state? 14 A Well, it's -- it -- it states particular 15 locations and it states the counties and 16 some of them, like in Birmingham it gives 17 specific locations, not just -- not just 18 a county or a city. 19 Q Do you know whether the secretary of 20 state ever responded to all of these 21 suggestions, in your recollection, 22 Senator? 23 A I don't recall. I see -- I think Justice</p>	<p style="text-align: right;">Page 136</p> <p>1 (At which time, the 2 witness reviews the 3 exhibit.) 4 A Okay. 5 Q Does that refresh your recollection about 6 any efforts by the Secretary of State's 7 Office about how many voters don't have 8 photo ID? 9 A Not really. I see -- I see in here where 10 they suggested the 500,000-dollar -- 11 500,000 number that had been raised that 12 they suggested that they estimate that 13 half of them did possess adequate forms 14 of photo ID. 15 Q Senator, looking at the second page of 16 the document, there's a list of citizens 17 and residents of Alabama who are 18 requesting this information. Were you 19 and your wife some of the folks 20 requesting this information about how 21 many voters didn't have ID? 22 A Yes. 23 Q To your knowledge did the Secretary of</p>

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1 State's Office ever provide this
2 information about --
3 A Not to my knowledge.
4 Q Senator, do you remember what the first
5 general election was when Alabama's photo
6 ID law went into effect?
7 A I think it was 2014, the general election
8 of 2014.
9 Q Do you recall --
10 A Well, I think it was the election -- I
11 believe the election was in 2014.
12 Q I'm going to -- do you recall discussions
13 about the impact of the photo ID law on
14 the 2014 elections?
15 A Yes.
16 Q Okay. What do you recall those
17 discussions being?
18 A Well, as -- as I recall, we had the
19 lowest turnout that we had had in -- in
20 30-some years.
21 Q And do you believe the photo ID law
22 contributed to that?
23 MR. NEIMAN: Objection.

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1 MS. MESSICK: Object to
2 the form.
3 A Yes. I'm absolutely convinced that the
4 photo ID law contributed to it.
5 Q Why do you believe that, Senator?
6 A Well, in discussion, out in the community
7 and stuff, a lot of people, one, were
8 reluctant to vote at all. They thought
9 the ID -- voter ID was designed to -- for
10 some other purposes. So they decided
11 that even if they had ID, they weren't
12 going to vote. And others didn't try to
13 get the ID because they were concerned
14 that somebody had other purposes. It
15 definitely had an adverse impact. It
16 definitely suppressed the vote of
17 African-Americans.
18 Q When you say "other purposes," what do
19 you mean?
20 A Well, some people felt like it was
21 designed to try to snag them in something
22 in one way or the other, whether they had
23 done anything or not. It was -- the

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1 feeling was that this was a way just to
2 try to get them.
3 Q When you say "get them," do you mean
4 African-Americans?
5 A Yes. Get typically African-American
6 voters.
7 Q Senator Sanders, do you know what the
8 cost of a driver's license in Alabama is?
9 A As I recall, it's about \$54 or something
10 like that.
11 Q Do you recall if the cost has gone up in
12 the last five years or so?
13 A Yes. It might be \$52. I forget. Maybe
14 it was a 52 percent increase. I've -- it
15 seems to me like it -- it went up about
16 50-something percent. I don't recall. I
17 think it went up 52 percent and I can't
18 remember the exact cost of it, but it --
19 it may have gone up from 20-some to
20 \$40-some. I don't remember the exact
21 amount, but I remember there was a huge
22 increase.
23 Q Okay. And that was after the photo ID

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1 law was passed; is that correct?
2 A Yes.
3 Q Okay. Do you think that that cost
4 increase had an impact on people's
5 ability to get a photo ID needed to vote?
6 MR. NEIMAN: Objection.
7 MS. MESSICK: Object to
8 the form.
9 A Yes. And I think -- I think that -- as I
10 said it earlier, people were concerned
11 about getting a photo ID anyway and they
12 preferred a driver's license so they
13 could use it for all kinds of things and
14 they could carry it at all times and the
15 increase in the driver's license cost
16 would make it harder. Some people can't
17 hardly imagine that \$40-some, or whatever
18 amount it is, stopping anybody from
19 getting a driver's license, but when
20 you're living hand to mouth, it has a
21 profound impact. So...
22 Q Thank you, Senator.
23 Senator, do you recall in 2015 --

<p style="text-align: right;">Page 141</p> <p>1 well, let me start over.</p> <p>2 Do you know what the Alabama Law</p> <p>3 Enforcement Agency is?</p> <p>4 A Yes.</p> <p>5 Q What is it?</p> <p>6 A It's a -- a chief law enforcement agency</p> <p>7 that now covers ABI, state troopers, and</p> <p>8 other law enforcement agencies. Also,</p> <p>9 driver's license fall up under it.</p> <p>10 Q So would you understand what I meant if I</p> <p>11 called the Alabama Law Enforcement</p> <p>12 Agency, ALEA?</p> <p>13 A Yes.</p> <p>14 Q Okay. So is ALEA also responsible for</p> <p>15 issuing driver's licenses; is that</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. Do you recall -- strike that.</p> <p>19 I'm going to hand you what's marked</p> <p>20 as Plaintiff's 7 from defendant's</p> <p>21 production, 00054842.</p> <p>22 (Plaintiff's Exhibit 7 was</p> <p>23 marked for</p>	<p style="text-align: right;">Page 143</p> <p>1 part-time satellite ALEA offices, at</p> <p>2 least the way ALEA is describing it. Do</p> <p>3 you recall when you first learned about</p> <p>4 these closures of these offices?</p> <p>5 A Yes.</p> <p>6 Q Was it through this letter?</p> <p>7 A No.</p> <p>8 Q When did you first learn about it?</p> <p>9 A From the newspaper.</p> <p>10 Q Okay.</p> <p>11 A Or from the media, I should say.</p> <p>12 Q Okay. Was that before October 2015?</p> <p>13 A It -- as I recall, the announcement was</p> <p>14 only made a couple of days before --</p> <p>15 before October the 1st and so I would</p> <p>16 think it would -- I learned from the</p> <p>17 media a couple of days before.</p> <p>18 Q Okay. Senator, this e-mail was sent to</p> <p>19 Hank Sanders@ALSenate.gov. Is that the</p> <p>20 primary e-mail that you use as a senator?</p> <p>21 A I don't use that e-mail at all.</p> <p>22 Q Okay. What -- you have another e-mail</p> <p>23 account; is that correct?</p>
<p style="text-align: right;">Page 142</p> <p>1 identification.)</p> <p>2 (At which time, the</p> <p>3 witness reviews the</p> <p>4 exhibit.)</p> <p>5 Q You reviewed it, Senator?</p> <p>6 A Huh?</p> <p>7 Q You reviewed it?</p> <p>8 A I have.</p> <p>9 Q Have you seen this document before?</p> <p>10 A No, I haven't.</p> <p>11 Q Okay. Do you see who this document was</p> <p>12 from and to?</p> <p>13 A I see that it was addressed to me and it</p> <p>14 was from John Hamm at the Alabama Law</p> <p>15 Enforcement Agent. I've never seen this.</p> <p>16 Q Is it possible that you -- okay.</p> <p>17 Was this -- this letter is dated</p> <p>18 October 1st, 2015; is that right?</p> <p>19 A Yes.</p> <p>20 Q And I know you just reviewed it and you</p> <p>21 haven't seen it. You're saying you</p> <p>22 haven't seen it before, but do you recall</p> <p>23 the letter talks about the closure of 31</p>	<p style="text-align: right;">Page 144</p> <p>1 A Yes. The e-mail account I use is</p> <p>2 [REDACTED]</p> <p>3 Q Okay. And you use that for your</p> <p>4 legislative e-mails as well; correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. Senator, so the -- you learned</p> <p>7 about the closures around this time; is</p> <p>8 that fair to say?</p> <p>9 A Yes.</p> <p>10 Q Okay. The 31 offices, do you recall</p> <p>11 where those 31 offices that were being</p> <p>12 closed were located?</p> <p>13 A I don't recall where all 31 of them were,</p> <p>14 but I know that out of 13 black belt</p> <p>15 counties, what I consider black belt</p> <p>16 county, 11 of them, as I recall, were in</p> <p>17 the black belt.</p> <p>18 Q And were those counties in your district?</p> <p>19 A Quite a few of those counties was in the</p> <p>20 district. Butler and Lowndes and Wilcox</p> <p>21 and Perry and -- let's see. Dallas and</p> <p>22 Marengo, they stayed open. I just recall</p> <p>23 that a number of them was in the</p>

<p style="text-align: right;">Page 145</p> <p>1 district.</p> <p>2 Q And those counties that you listed, are</p> <p>3 they majority African-American counties?</p> <p>4 A All except Butler and Butler has a high</p> <p>5 percentage of African-Americans but not a</p> <p>6 majority.</p> <p>7 Q Okay. Given that the closures, as you've</p> <p>8 described it, were in 11 of the 13 black</p> <p>9 belt counties, who did you think that</p> <p>10 these closures were more likely to</p> <p>11 affect?</p> <p>12 MS. MESSICK: Object to</p> <p>13 the form.</p> <p>14 A I was very concerned that it was going to</p> <p>15 disproportionately impact</p> <p>16 African-Americans.</p> <p>17 Q Why?</p> <p>18 A Because it affected so many of the black</p> <p>19 belt counties. I know how difficult it</p> <p>20 is for people, even within the county</p> <p>21 where there's no public transportation to</p> <p>22 speak of, to get from their homes to</p> <p>23 get -- just from their homes to get to</p>	<p style="text-align: right;">Page 147</p> <p>1 lesser resources. And so I just thought</p> <p>2 it was going to have a great adverse</p> <p>3 impact on African-Americans even outside</p> <p>4 of the black belt.</p> <p>5 Q Senator, you mentioned effect of the</p> <p>6 closures on voting. Why did you think</p> <p>7 that the ALEA closures were relevant to</p> <p>8 voting?</p> <p>9 A Well, they were very relevant because in</p> <p>10 talking with black people, they didn't</p> <p>11 want to even try to get a voter -- photo</p> <p>12 ID. They wanted a driver's license,</p> <p>13 something that they could use in other</p> <p>14 ways. And they were scared that the</p> <p>15 photo ID was going to end up getting them</p> <p>16 in trouble. So a driver's license became</p> <p>17 even more important within the context of</p> <p>18 this. And so, that meant that it was</p> <p>19 going to be so much harder to get -- get</p> <p>20 driver's license and, therefore, it was</p> <p>21 going to be so much more difficult to be</p> <p>22 in a position to vote.</p> <p>23 Q Senator Sanders, do you recall if there</p>
<p style="text-align: right;">Page 146</p> <p>1 the county seat and so when they hardly</p> <p>2 have -- already have very little money,</p> <p>3 if any, just to get from the county seat,</p> <p>4 from home to the county seat. But to</p> <p>5 then have to get to another county. And</p> <p>6 even if they were working, that means</p> <p>7 they have to take a day off. They have</p> <p>8 to get somebody else to take them to</p> <p>9 another county, to pay for it, that it</p> <p>10 was just going to have a tremendously</p> <p>11 adverse impact on there. I thought a lot</p> <p>12 of people would end up not getting</p> <p>13 license. They might end up driving</p> <p>14 without them. That it would also impact</p> <p>15 people whether they were able to vote or</p> <p>16 not. I thought it was just going to have</p> <p>17 a very strong impact on</p> <p>18 African-Americans.</p> <p>19 And even in counties that were not</p> <p>20 majority African-American or had a high</p> <p>21 percentage, I still thought it would have</p> <p>22 a disproportionate impact because we are</p> <p>23 poor and as a group, we generally have</p>	<p style="text-align: right;">Page 148</p> <p>1 were any protests around the ALEA</p> <p>2 closures?</p> <p>3 A Yes.</p> <p>4 Q What kind of protests?</p> <p>5 A We -- we are -- we had a number of -- of</p> <p>6 press conferences. I wrote a number of</p> <p>7 articles. We had a -- a dramatization on</p> <p>8 the steps of the capitol. And as I</p> <p>9 recall, it was called not -- not just --</p> <p>10 "Give us the ballot, not just a bottle."</p> <p>11 The reason it was called that is because</p> <p>12 at the time they were closing driver's</p> <p>13 license office, they kept open liquor</p> <p>14 stores that was losing money and one</p> <p>15 person stated in the administration</p> <p>16 stated that it wasn't fair to have people</p> <p>17 travel from -- have to travel to another</p> <p>18 county to get a bottle. And we were</p> <p>19 highly disturbed because they'd have to</p> <p>20 travel for a driver's license and a</p> <p>21 driver's license was necessary to life</p> <p>22 and for most people the bottle is not</p> <p>23 necessary to life. So they were putting</p>

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1 the bottle over the -- over the -- over
2 the driver's license, which could be used
3 for the voting. So we had the theme:
4 "Give us the ballot, not just the
5 bottle."
6 MS. MESSICK: Object to
7 the --
8 A We also --
9 Q Go ahead.
10 MS. MESSICK: I'm sorry.
11 I thought you were done. I'll
12 object when you're done.
13 A So also -- we had a caravan that started
14 over in Bullock County and then traveled
15 to Macon County and then to Montgomery.
16 Each place we would stop with local
17 people and have an event. The Montgomery
18 County then to Lowndes County to Butler
19 County to Wilcox County and that was one
20 day. And then the next day we started in
21 Pickens County, Sumter County, Green
22 County, Hale County, Perry County, and
23 into Dallas County at the bridge.

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1 MS. MESSICK: Object to
2 the form of the answer.
3 Q Senator Sanders, you mentioned that
4 you've written articles. I'm going to
5 hand you Plaintiff's Exhibit 8, which is
6 an article, again, from Westlaw, an
7 opinion article.
8 (Plaintiff's Exhibit 8 was
9 marked for
10 identification.)
11 Q I'll give you a moment to review.
12 (At which time, the
13 witness reviews the
14 exhibit.)
15 A Okay.
16 Q Senator, do you recognize this document,
17 not this exact document but the text of
18 it?
19 A Yes, I do.
20 Q What is it?
21 A It was -- I did a senate sketches and it
22 was turned into an opinion, editorial
23 opinion.

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1 Q And does that accurately reflect your
2 views at the time of the ALEA office
3 closures?
4 A Yes.
5 Q Okay. So -- and talking about protests,
6 do you recall if there were other
7 organizations that joined you in
8 protesting the ALEA closures?
9 A Yes. It was a number of organizations,
10 but SOS and organizations that's involved
11 in SOS.
12 Q Do you recall if the Alabama NAACP
13 participated?
14 A Yes.
15 Q Okay. Do you recall if Greater
16 Birmingham Ministries participated?
17 A Yes.
18 Q Okay. Senator, did the governor of
19 Alabama, Robert Bentley, respond at all
20 to these protests at the time.
21 A First, I remember something being said
22 but I don't remember what he said. I
23 remember eventually they said in those

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1 counties that they would make driver's
2 license available, they would open the
3 office once a month. That was the
4 eventual response.
5 Q And do you believe that that was -- that
6 adequately addressed the concerns that
7 you raised?
8 A Absolutely not.
9 Q Why not?
10 A First, when an office this critical is
11 open once a month, you may have to wait
12 30 days and if for some reason you can't
13 get off from work or you can't get there
14 because of transportation or something
15 else, then you end up waiting another 30
16 days. That's 60 days. Driver's license
17 are critical, not just for voting, but
18 they're -- they're critical for -- to be
19 able to get on an airplane. They're
20 critical to be able to handle various
21 kinds of commercial transactions.
22 They're critical for identification.
23 They're critical for driving. They're

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1 critical in so many ways and something
2 that critical to have a situation where
3 you can -- where -- where it's just open
4 one day a week and something not as
5 critical, like liquor, they make sure
6 it's open six days a week. There's
7 something wrong with that picture.
8 Q Senator, do you recall if the United
9 States Department of Transportation did
10 anything about these closures?
11 A Yes. When they sent a representative
12 down, I met with them and some other -- I
13 forget who was with me when we met with
14 them and eventually an agreement worked
15 out between ALEA and the Department of
16 Transportation where a number of these
17 were required to go back to the status
18 that they had prior to this closing on
19 October the 1st, 2015.
20 Q Do you recall when that agreement was
21 entered into?
22 A It's -- it's been -- certainly it's been
23 in the last 45 days, certainly within the

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1 last 60 days. It may have been or less,
2 but somewhere between a month and two
3 months, I would say.
4 Q Do you recall if that was before or after
5 the 2016 -- November 2016 presidential
6 election?
7 A It was -- it was afterwards. As I
8 recall, I learned about it the day after
9 Christmas, I think, the day after
10 Christmas because I remember saying that
11 this is the Christmas present I didn't
12 already have.
13 Q Senator, in light of the agreement
14 between ALEA and the U.S. department
15 of -- well, strike that. Let me go --
16 Senator, did you introduce any
17 legislation to address the DMV closings?
18 A Yes. I introduced a bill to require that
19 the offices be open at least two days a
20 week in every county in Alabama.
21 Q And do you recall -- did that bill --
22 when did you introduce that bill?
23 A It was in the regular session of 2016.

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1 Q And did that bill pass?
2 A Yes. It passed the Senate and then it
3 passed the House and went to the
4 governor, and the governor did what we
5 call a pocket veto. He just let it lay
6 there and didn't sign it and after a
7 certain number of days, it's
8 automatically vetoed.
9 Q Do you know why the governor pocket
10 vetoed the bill?
11 MS. MESSICK: Object to
12 the form of the question.
13 A One of -- I was interacting with one of
14 the governor's representative -- the
15 Senate representative. I can't pull his
16 name up right now. I told him -- there
17 was a concern -- when the bill was going
18 through, we offered a compromise. We
19 reached a compromise that it would be one
20 day instead of two days, one day a week
21 instead of two days. But the bill didn't
22 come up in the House for consideration
23 until it was the last moment. There was

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1 no time to -- to -- to -- to amend it.
2 It passed the Senate with two days
3 and in the House we were willing to cut
4 it down to one day. And so -- and I
5 talked with him -- I told him that we
6 would work with them in the next session
7 of the legislature to reduce it to --
8 from two days to one day, but that didn't
9 matter. They vetoed it anyway.
10 Q Okay. The bill that you pass -- that
11 passed the legislature, did Republicans
12 vote for it?
13 A Yes. Republicans voted for it,
14 Democrats. I think -- I don't remember
15 the exact vote, but I remember only three
16 people voted against it in the Senate.
17 It might have been 26 to 3 or
18 20-something to 3. And in the House,
19 very few voted against it. So
20 Republicans as well as Democratic voted
21 against [sic] it but he vetoed it anyway.
22 Q Republicans voted for the bill; is that
23 right?

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1 A Yes.

2 Q Okay. Did the governor ever offer you
3 any explanation why he vetoed the bill
4 other than wanting your offer maybe to go
5 down to one day instead of two days a
6 week?

7 A No, I've never had a discussion directly
8 with the governor about it.

9 Q Anyone from his office call to say why he
10 was pocket vetoing the bill?

11 A Well, his Senate representative called
12 and told me that they had a -- I don't
13 remember whether he said -- he said
14 several hours of debate about it and they
15 decided to go ahead and do it. I
16 don't -- I don't remember precisely what
17 he said about it. I -- I just remember
18 being terribly disappointed.

19 Q Why were you disappointed, Senator?

20 A Well, I was disappointed on three levels.
21 First, I was disappointed for people in
22 general, how much more difficult it was
23 for them to be able to get a driver's

Page 158

1 license. I just thought that that was a
2 terrible disservice and while they stated
3 that it was budgetary, I did not think it
4 was budgetary because that first analysis
5 said it was a -- they -- they would lose
6 a hundred thousand dollars. Later they
7 came back with -- months later with some
8 more kind of analysis. So I didn't think
9 it was budgetary in the first place.

10 Second, I thought it was going to
11 have a disproportionate impact on
12 African-Americans in general.

13 And, third, I thought it was going
14 to have a disproportionate on counties I
15 used to represent and still has a lot of
16 ties to. So when you put the counties
17 that I currently represent and counties
18 that I used to represent out of that 11
19 counties, you know, more than half were
20 counties either I represented or used to
21 represent and still had a lot of ties to.

22 Q Did you convey those concerns to the
23 governor's office before he vetoed the

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1 bill?

2 A I didn't convey to the governor's office
3 about the particular concern about the
4 district. I did convey the problems
5 about the impact it was having on the
6 citizens and the impact it would have on
7 African-Americans in a disproportionate
8 way. I even used the concept that I used
9 in this article about how when certain
10 parts of the community get a cold, other
11 parts get pneumonia.

12 So it's important to understand the
13 impact of this. For some people, it may
14 have a little impact. You know, if
15 you -- if you got decent resources and go
16 into another county and you have
17 flexibility on your work schedule and you
18 have the money to get the gas to drive
19 your own car then the impact is minimal.
20 But on the other hand, if you don't have
21 any money in the first place, you don't
22 have a car, you don't have anybody to be
23 able to take your to the next one, then

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1 that becomes prohibitive, so you end up
2 with pneumonia in that case where
3 somebody else it's an inconvenience like
4 a cold. So...

5 Q Thank you, Senator.

6 Going back, you mentioned that ALEA
7 settled the issue with the United States
8 Department of Transportation and agreed
9 to reopen the -- several of the ALEA
10 offices in the black belt; is that
11 correct?

12 MS. MESSICK: Object to
13 the form.

14 A Yes. They -- they agreed to -- to return
15 them to -- for whatever number of days
16 and hours they had prior to the -- the
17 closing of the offices on December the
18 15th and that varied. Now, one county
19 was not a black belt county. It's Bibb
20 County. Some people may throw Bibb
21 County in, but I have never considered
22 Bibb County as a black belt county.

23 Q Okay. Does Bibb County have a large

Page 161

1 African-American population?

2 A No.

3 Q Is it close to the black belt?

4 A Well, it joins Hale County and joins

5 Perry County.

6 Q So it's nearby counties that you would

7 consider the black belt; is that correct?

8 A It adjoins, yeah.

9 Q All right. Senator, did this settlement

10 require any action by the state

11 legislature as far as you know?

12 A No.

13 Q No, it did not require action by the

14 state legislature?

15 A No, it did not require action by the

16 state legislature to my knowledge.

17 Q Okay. Did it require appropriation of

18 new funds by the state legislature for

19 ALEA?

20 A I don't recall it requiring -- I don't

21 know.

22 Q Okay. Given that, do you believe it was

23 within the govern's power to reopen these

Page 162

1 ALEA offices prior to the settlement

2 agreement?

3 A There's no doubt in my mind that the

4 governor could have -- could have

5 reopened those offices within the

6 budgetary constraints of the state.

7 He -- he -- he was -- yes, he could have

8 reopened them.

9 Q And why do you think the governor waited

10 until there was an agreement with the

11 U.S. Department of Transportation before

12 reopening the offices?

13 MR. NEIMAN: Object to the

14 form.

15 MS. MESSICK: Object to

16 the form of the question.

17 A I don't know why the governor waited, but

18 I -- I was always concerned that this

19 wasn't about budgets; this was about

20 politics.

21 Q And what do you mean by that?

22 A That there were political reasons for

23 this and not financial reasons.

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1 Q Do you have any sense of what those

2 political reasons might have been?

3 MR. NEIMAN: Object to the

4 form.

5 A I --

6 MS. MESSICK: Object to

7 the form.

8 A I certainly thought that one of them had

9 to do with the ongoing efforts to

10 suppress the black belt.

11 Q Take a short break.

12 VIDEOGRAPHER: This ends

13 disk three. Going off the

14 record at 2:43.

15 (At which time, a break

16 was held.)

17 VIDEOGRAPHER: Going back

18 on the record at 3 o'clock.

19 BY MR. ROSS:

20 Q Senator, I just have a few more

21 questions.

22 I'm sorry.

23 A No. I'm fine.

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1 Q Sorry. Didn't realize you weren't ready.

2 The bill to reopen the ALEA offices for

3 at least two days a week, was that Senate

4 Bill 172? Does that sound correct?

5 A I don't remember numbers well on that,

6 but I think it's 172.

7 Q Okay.

8 A Senate Bill 172.

9 Q Okay. Senator, can you think of other

10 instances in which the governor has

11 failed to respond to the concerns of

12 African-Americans in the last four or

13 five years?

14 MS. MESSICK: Object to

15 the form of the question.

16 Q Let me give you an example, Senator. Was

17 there an opportunity to expand Medicaid

18 in Alabama.

19 MR. NEIMAN: Objection to

20 from.

21 MS. MESSICK: Object to

22 the form of the question.

23 A Yes.

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1 Q And do you know whether or not the
2 governor supported that expansion?
3 MS. MESSICK: Object to
4 the form.
5 A No. I know that he did not support it.
6 Q Do you know why he did not support the
7 Medicaid expansion?
8 MR. NEIMAN: Objection to
9 form.
10 MS. MESSICK: Object to
11 the form.
12 A I met with him on several occasions
13 concerning Medicaid and he always
14 expressed concern about people's health,
15 but he never did anything about it. So
16 we explained to him that up to 700 people
17 in Alabama per year died for lack of
18 Medicaid expansion and we talked to him
19 about all of those people who may not
20 have died but whose illness was worse
21 than it ought to be.
22 At one point I think it was 11 or 12
23 of us that met. At other times it was a

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1 smaller number. I even wrote him a
2 public letter and wrote him a private
3 letter concerning all of this, but we
4 could never move him.
5 Q And when you mentioned the groups who met
6 with him, did that include groups that
7 were representative of African-Americans?
8 A Yes. SOS met with them and that
9 certainly was representative of
10 African-Americans although there were
11 other groups that were in there that were
12 in addition to African-Americans.
13 Q Do you recall if the issue was raised
14 that African-Americans may
15 disproportionately benefit from a
16 Medicaid expansion?
17 A Well, I -- I recall that we tried to
18 assure him that that there were -- that
19 there were plenty of white people who
20 were not getting the service and should
21 get them and this ought not to be about
22 African-Americans.
23 MS. MESSICK: Object to

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1 the form of the answer.
2 Q Senator, do you recall -- when I refer
3 to -- when I say "confederate flag," do
4 you know what the confederate flag is?
5 A Yes.
6 Q What is it?
7 A The confederate flag -- there are several
8 different confederate flags and one of
9 them is the flag of the Confederate
10 States of America. That happened during
11 the -- the war -- the Civil War and
12 another one is the battle flag and the
13 battle flag also was the symbol and used
14 quite often by the Ku Klux Klan and other
15 groups that were oppressive of
16 African-Americans. And so the
17 confederate flag, that's the flag, as I
18 recall, that's often used rather than the
19 flag of the Confederate States of
20 America.
21 Q The battle flag?
22 A Yeah.
23 Q And do you recall if the battle flag --

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1 the confederate battle flag was ever
2 flown over the State Capitol of Alabama?
3 A Yes.
4 Q When was it flown over the state capitol?
5 A Well, as best I can recall, the
6 confederate flag started being flown in
7 general in the South when the issue of
8 civil rights and human rights were --
9 became very active. And I can't recall
10 exactly when it was put up, but I was one
11 of those who were arrested in an effort
12 to take it down.
13 I was arrested and Representative
14 Albert Holmes and Senator Michael Wiggins
15 was living at that time and there was a
16 tremendous effort to try to take it down.
17 And -- and eventually there was a lawsuit
18 to -- to have it removed.
19 Q Was that lawsuit successful?
20 A Yes. As I recall, there was a ruling by
21 a state judge and -- and it wasn't
22 appealed. I think Governor Folsom was in
23 office at the time. He had filled out

<p style="text-align: right;">Page 169</p> <p>1 the term for a previous governor.</p> <p>2 Q Do you recall if the flag was still flown</p> <p>3 on the grounds of the state capitol after</p> <p>4 that?</p> <p>5 A Yes.</p> <p>6 Q Okay. Was it -- has it since been</p> <p>7 removed?</p> <p>8 A Yes, it -- it was removed as I -- as I</p> <p>9 recall either in 2015 or 2016. I think</p> <p>10 2015. It may have been removed in 2015,</p> <p>11 I think.</p> <p>12 Q Senator, I'm going to hand you a news</p> <p>13 article from the "Alabama Political</p> <p>14 Reporter" from January 26, 2017.</p> <p>15 (Plaintiff's Exhibit P9</p> <p>16 was marked for</p> <p>17 identification.)</p> <p>18 Q Sorry. I misspoke when I said what date</p> <p>19 the article was.</p> <p>20 MR. ROSS: Do you want to</p> <p>21 go off the record for a second?</p> <p>22 MS. MESSICK: Yeah. Can</p> <p>23 we go off the record a second?</p>	<p style="text-align: right;">Page 171</p> <p>1 removed the flag, there was a call to</p> <p>2 remove other symbols from the capitol and</p> <p>3 I -- I think that the call to remove the</p> <p>4 additional symbols is what inspired this</p> <p>5 bill even though it talked about</p> <p>6 preserving civil rights and confederate,</p> <p>7 it really was about confederate symbols,</p> <p>8 not about civil rights symbols.</p> <p>9 Q Okay. Senator, can you just look at the</p> <p>10 last full paragraph of this article. I</p> <p>11 think it's the third page of the document</p> <p>12 that I handed you at the very bottom. Do</p> <p>13 you see that?</p> <p>14 A Yes.</p> <p>15 Q Just briefly review that paragraph.</p> <p>16 A Yes.</p> <p>17 (At which time, the</p> <p>18 witness reviews the</p> <p>19 exhibit.)</p> <p>20 A I've looked at it.</p> <p>21 Q Does that refresh your recollection of</p> <p>22 why Governor Bentley removed the</p> <p>23 confederate flag from the state capitol</p>
<p style="text-align: right;">Page 170</p> <p>1 VIDEOGRAPHER: Going off</p> <p>2 the record at 3:10.</p> <p>3 (At which time, a break</p> <p>4 was held.)</p> <p>5 VIDEOGRAPHER: Back on the</p> <p>6 record at 3:12.</p> <p>7 BY MR. ROSS:</p> <p>8 Q Senator, I misspoke earlier when I said</p> <p>9 that this article was from today's date.</p> <p>10 It appears that it was from around</p> <p>11 March 2016. Did this refresh your</p> <p>12 recollection about why the confederate</p> <p>13 flag was removed from state capitol</p> <p>14 grounds?</p> <p>15 A No, because I don't think that this bill</p> <p>16 had anything to do with it being removed</p> <p>17 from the capitol grounds. This -- this</p> <p>18 bill was in the legislative session of</p> <p>19 2016, so that would have been March the</p> <p>20 3rd of 2016 when it passed the Senate.</p> <p>21 As I recall, the bill didn't pass the</p> <p>22 House. It simply passed the Senate.</p> <p>23 There were -- when the governor</p>	<p style="text-align: right;">Page 172</p> <p>1 grounds?</p> <p>2 A Not really, because my recollection --</p> <p>3 all of this happened afterwards but my --</p> <p>4 my recollection is that -- that -- that</p> <p>5 Google was about to open a plant up in --</p> <p>6 up North Alabama at the time. I think it</p> <p>7 was Google. And that the removal of the</p> <p>8 confederate flag from the grounds had</p> <p>9 more to do with Google than it did with</p> <p>10 what was happening in South Carolina or</p> <p>11 any of these other things.</p> <p>12 Q Okay. And is it -- the bill that you</p> <p>13 were sort of mentioning earlier and that</p> <p>14 was talked about in this article, Senate</p> <p>15 Bill 13, you were describing -- it was</p> <p>16 called the Alabama Heritage Preservation</p> <p>17 Act?</p> <p>18 A Yes.</p> <p>19 Q Do you recall who sponsored that act?</p> <p>20 A I thought it was Gerry Allen, Senator</p> <p>21 Gerry Allen, I thought.</p> <p>22 Q Do you recall what the purpose of that</p> <p>23 bill was? I believe you've already sort</p>

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1 of testified to it, but it was to protect
2 confederate monuments; is that right?
3 A Yes. That -- that certainly was my
4 understanding.
5 Q Okay. I have one final question for you,
6 Senator. Do you recall who the lead
7 sponsor for the photo ID bill was in
8 2011 --
9 A No.
10 Q For the Senate? Okay. Do you --
11 Senator, did you support this Senate Bill
12 13 from 2016 about the Alabama Heritage
13 Preservation Act? Did you support --
14 A I was opposed to it.
15 Q Okay. And do you recall any efforts by
16 the Alabama legislative black caucus to
17 stop the bill from being passed?
18 A I know that if I recall correctly that in
19 the Senate we were prepared to filibuster
20 it, but I think that they -- if I
21 remember correctly, they did one of those
22 speedy cloture petitions, so we didn't
23 get a chance to -- to debate it. But the

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1 House -- the House black caucus took some
2 strong steps, I recall, to keep it from
3 passing the House.
4 Q Okay. So is it your understanding that
5 the bill did not pass out of the House?
6 A That's my understanding, yeah.
7 Q But it did pass out of the Senate; is
8 that correct?
9 A Yes.
10 Q Senator, have you ever introduced any
11 legislation designed to make it easier
12 for people to vote, just as an example,
13 same-day registration?
14 A Yes. I -- I -- I'm trying to pull it up.
15 I -- I recall introducing the bill, I
16 believe, that once somebody's term has
17 been served, then the right to vote would
18 be restored. I recall -- I -- I believe
19 I introduced the same-day -- same-day
20 registration and voting bill. I think I
21 introduced -- I think I reduced --
22 introduced some other bills, but I can't
23 pull them up at the moment.

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1 Q The two bills that you were able to
2 mention for restoration of the right for
3 people with felony convictions and
4 same-day registration for voting, do you
5 recall if either of those bills passed
6 the legislature?
7 A I recall that neither passed the
8 legislature, neither got out of
9 committees as I recall.
10 MR. ROSS: All right.
11 I'll reserve my time, but turn
12 it over to the defendants for
13 now.
14 EXAMINATION
15 BY MS. MESSICK:
16 Q Good afternoon, Senator Sanders.
17 A Good afternoon to you.
18 Q We've been going a long time and we've
19 been going for a long time without
20 breaks. Just let me know if you need a
21 break and I'll be happy to stop as long
22 as there's not a question on the table.
23 A Sure.

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1 Q I wanted to start with some background.
2 You testified earlier that you have been
3 practicing law for around four decades, I
4 believe, has that all been here where we
5 are today?
6 A No. You mean in this building?
7 Q I mean in this firm.
8 A Yes. Well, no. When I graduated from
9 law school in 1970, I spent a year -- me
10 and my wife spent a year in Africa and
11 when we came back, we went to Huntsville
12 and we were -- we had fellowships and we
13 had Reginald -- Reginald Heber Smith
14 fellowship and we got attached to the
15 Madison County Legal Aid Society. I
16 wasn't there very long before I came onto
17 Selma.
18 Q And when you came here you and your wife
19 founded this firm with J.L. Chestnut?
20 A Well, I came in the fall of 1971 and I
21 opened the firm January the 10th, 1972.
22 My wife stayed on in Huntsville until she
23 passed the bar and she took it in

<p style="text-align: right;">Page 177</p> <p>1 February. I think she got her results in 2 April. So about May the 1st, she came 3 down and a we together and then in July, 4 J.L. Chestnut joined us. 5 Q And you went to Harvard Law School? 6 A Yes. 7 Q Mr. Ross has asked you several times 8 today about what a law means. You agree, 9 don't you, that the law speaks for itself 10 and a court of law will decide what it 11 means, what it does? 12 A I'm not sure that I agree that the law 13 speak for itself. In my years of 14 practice, I have seen all kinds of 15 interpretations of the same law. I've 16 seen lawyers argue about what the law 17 means. I've seen judges argue about what 18 the law means. So if it speaks for 19 itself, it speaks with many tongues. 20 Q Would you agree that when you testify 21 about what a law means that that is 22 something that the court will ultimately 23 determine?</p>	<p style="text-align: right;">Page 179</p> <p>1 happens to you when you get in your 74th 2 year. 3 Q Do you ever recall handling an election 4 contest? 5 A Yes. 6 Q Can you tell me about that -- well, how 7 many were there that you can recall at 8 this time? 9 A I've been involved in multiple election 10 contests. But it's hard to pull up 11 exactly which ones, but I know that I've 12 been involved in multiple election 13 contests. 14 Q Did any of those cases involve 15 allegations of irregularities in the 16 election? 17 A I can't recall right off, but I would -- 18 I would assume that the -- there would 19 have been allegations of. The statue 20 requires -- the statue, as I recall, says 21 that you must state that either there was 22 somebody received votes they shouldn't 23 have received or something to that effect</p>
<p style="text-align: right;">Page 178</p> <p>1 MR. ROSS: Objection. 2 Form. Speculation. 3 A I -- I -- I think that a court may 4 ultimately determine. 5 Q You testified that you were a defense 6 attorney for the Marion 3. Have you ever 7 handled any -- have you ever been 8 involved in criminal cases as a 9 prosecutor? 10 A No, not that I recall. 11 Q Have you ever handled any voting rights 12 cases other than the defense in the 13 Marion 3 case? 14 A Voting rights cases, yes. 15 Q Can you please tell me about that. 16 A I -- I filed a redistricting case in 17 Monroe County so the county commission 18 would be run from districts instead of at 19 large. I was part of a case that was 20 filed in Dallas County and -- let me try 21 to pull them up. And I'm sure I've been 22 involved in some more. I just can't pull 23 them up right at the moment. That's what</p>	<p style="text-align: right;">Page 180</p> <p>1 or there was some irregularities of some 2 sort. So I'm sure that that would have 3 been alleged in the election contest 4 because I -- I think I -- I think I've 5 been on both sides. 6 Q That was my next question. You've been 7 on both sides of those cases? 8 A I think I've been on both sides of those 9 issues. 10 Q Have you ever sued the state or a state 11 official before? I guess I should 12 clarify that and say, as a plaintiff and 13 not as counsel? 14 A I don't recall. I know I've sued 15 counties and cities, but I can't recall 16 offhand of suing the state. But if you 17 could refresh my memory, I will be glad. 18 Q Actually, I'd like to move on and clarify 19 something. The members of the Alabama 20 House and Alabama Senate are elected to 21 four-year terms; correct? 22 A Yes. 23 Q But they are not in session for the</p>

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1 entire four years; correct?

2 A They're not in session for the entire

3 four years. Generally a session lasts a

4 hundred and -- I believe 105 days, 110

5 days, whatever. And you meet within 30

6 days within that period of time and then

7 there are some special sessions that you

8 have from time to time.

9 Q Thank you.

10 How would you describe the current

11 state of the Democratic party in Alabama?

12 A I -- I would describe it as anemic

13 because nearly all of the whites have

14 left the Democratic party and gone to the

15 Republican party and the Republican party

16 is nearly all white. So I would say the

17 majority of the Democratic party is now

18 African-American.

19 Q Who is currently running the Democratic

20 party in Alabama?

21 A Nancy Worley is the chair.

22 Q And who is ostensibly second in command?

23 A I don't know about second in command, but

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1 I know that Dr. Joe Reed has considerable

2 influence in the Democratic party.

3 Q Do you know Senator Vivian Figures?

4 A Yes, I know Senator Vivian Figures very

5 well.

6 Q Are you aware Senator Figures publically

7 accused Dr. Reed of preventing whites

8 from having certain leadership positions

9 within the Alabama Democratic party?

10 A No, I'm not aware of that. I do recall

11 that at one recent session of the

12 Democratic party there was an attempt to

13 fill some position. Some was filled and

14 there were others that was not filled and

15 I recall that she had some strong

16 objections and some choice words for

17 perhaps Dr. Reed, but I don't remember

18 that specifically. I wasn't there. I

19 just heard about it.

20 Q Have there been public calls for a change

21 in leadership of the Alabama Democratic

22 party?

23 A Well, I'm sure, yes. Yeah.

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1 Q Including by Craig Ford, who's in the

2 Alabama House, I believe?

3 A Yes. I -- I did read -- if I didn't read

4 it, someone told me that Craig Ford had

5 made some -- made -- made such a call.

6 Q How many full-time staffers are there for

7 the Alabama Democratic party?

8 A I have no idea.

9 Q What was Justice Mark Kennedy's Alabama

10 Democratic Majority?

11 A The -- Justice Mark Kennedy was the chair

12 of the Democratic party and then he left

13 and formed another organization.

14 Q And that was the Alabama Democratic

15 Majority?

16 A I don't remember the exact name, but I

17 know he formed another organization.

18 Q Can you tell me what Empower Alabama is?

19 A No.

20 Q Did the Democratic party run a full slate

21 of candidates for the constitutional

22 offices on the Alabama ballot in 2014?

23 A I don't think so.

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1 Q Do you remember who the Democratic

2 candidate for governor was in 2014?

3 A Yes.

4 Q Was it Parker Griffith?

5 A Yes.

6 Q Was Parker Griffith a Democrat who became

7 a Republican who became a Democrat?

8 A He was a Democrat and he -- he did become

9 a Republican and became a Democrat again,

10 yes.

11 Q The 2014 election, was Governor Bentley

12 running for reelection that year?

13 A Yes.

14 Q Was Lieutenant Governor Kay Ivey running

15 for reelection that year?

16 A Yes.

17 Q Was Attorney General Luther Strange

18 running for reelection that year?

19 A Yes.

20 Q Was Treasurer Young Boozer running for

21 reelection that year?

22 A I don't know if it was reelection, but he

23 was running.

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1 Q And was the agriculture commissioner
2 running for reelection that year?
3 A I know he was running.
4 Q Did the Democratic party run a strong and
5 large contention of candidates for county
6 and local offices across the state in
7 2014?
8 MR. ROSS: Objection to
9 form.
10 A I don't know about across the state.
11 I -- I know that the Democratic party ran
12 strong contingents local and state in
13 2010. But 2014 I -- I believe that there
14 were -- the circumstances had changed so
15 that a lot of people did not run in
16 various places from the local level and
17 some places in district level and some
18 places on the state level.
19 Q In 2016, the election cycle we just had,
20 isn't it true that Kelli Wise and Tom
21 Parker both ran for reelection to the
22 Alabama Supreme Court without Democratic
23 opposition?

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1 A I believe that's so.
2 Q In your judgment, did Hillary Clinton
3 have more than a 20 percent chance of
4 carrying Alabama in the 2016 general
5 election for president?
6 MR. ROSS: Objection.
7 Speculation. Form.
8 A Well, I certainly expected Candidate
9 Trump to carry Alabama, so the
10 expectation was certainly less than
11 50 percent. I wouldn't say that it was
12 less than 20 percent.
13 Q Is George Wallace dead?
14 A Yes.
15 Q You spoke with Mr. Ross --
16 A George Wallace -- George Corley Wallace?
17 Q Yes, the governor.
18 A Senior or junior. The old one is dead.
19 Q Yes.
20 A The young one might have died too.
21 Q I think we've still got him.
22 A Okay. Okay. I know -- I know the one
23 who became governor is dead, yeah.

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1 Q You spoke with Mr. Ross earlier about
2 what former Governor Wallace's views were
3 at one point in time. Isn't it true that
4 Governor Wallace changed his views before
5 his death about race relations, about
6 race?
7 A I believe that Governor Wallace announced
8 different views to -- when he was running
9 again, I think it was in 1982. I -- I
10 recall that he made some different
11 announcements about what his views were.
12 I don't know whether he changed his view,
13 but I know he announced something
14 differently. He was trying to get the
15 black vote in that election.
16 Q I believe you testified earlier that you
17 were not aware of whites in Alabama ever
18 electing a black man. Isn't it true that
19 the white voters of Cullman County
20 elected James Fields to the Alabama
21 legislature?
22 A No. I thought I was talking about
23 currently that there's not one.

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1 Q Okay.
2 A But they -- they did elect James Fields
3 up in cull -- Cullman County back in 2006
4 and I think he was defeated in 2010, but
5 yeah.
6 Q You also mentioned that black voters had
7 elected a white person to the Alabama
8 legislature. Were you referring to
9 Patricia Todd?
10 A I'm sorry?
11 Q You previously mentioned in your
12 testimony that black voters had elected a
13 white person to the Alabama legislature?
14 A Yeah.
15 Q Were you referring to Patricia Todd?
16 A Patricia Todd is one. But also Senator
17 Beasley. That's a majority black
18 district and he's been elected and
19 reelected.
20 Q Okay. With Representative Todd, what was
21 the public reaction of black leaders to
22 her election?
23 A The public reaction? I think --

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1 Q The public reaction of black leaders --
2 A I think --
3 Q -- I don't want you to get inside their
4 heads but I want you to tell me what you
5 heard them say.
6 A Most black leaders were fine with that.
7 I heard one black leader may have
8 publicly opposed it, but most black
9 leaders did not oppose it.
10 Q Was that one black leader Dr. Joe Reed?
11 A That's -- I didn't hear Dr. Reed say it
12 but I heard people said that he had taken
13 a strong position. I -- I think it was a
14 contest, an election contest that was
15 involved in that and -- and I think he --
16 he was for one candidate and some others
17 in the Democratic party was for another
18 candidate.
19 Q Do you remember who Dr. Reed and his
20 organization endorsed for president in
21 the 2008 primary?
22 A Yes. In the 2008 primary, the ADC
23 endorsed Hillary Clinton.

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1 Q And is it true that Dr. Joe Reed and the
2 ADC endorsed Hillary Clinton for
3 president in 2008 against Barack Obama
4 because they believed that America was
5 not ready for a black president?
6 A I don't think that that's --
7 MR. ROSS: Objection.
8 Form. Speculation.
9 A I don't think that that's why they
10 endorsed Senator Hillary Clinton. I
11 think at that point, one, that Hillary
12 Clinton had developed some strong
13 relationship with Dr. Reed and others and
14 had developed a strong relationship
15 with -- with NEA and AEA and I think that
16 that had a lot to do with ADC en --
17 endorsing Hillary Clinton.
18 Alabama New South with which I'm
19 associated with endorsed President Obama.
20 I do think -- there's one element there
21 that I do think that early on there were
22 some serious doubts about whether
23 President Obama could win the Democratic

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1 primary and, therefore, have a shot at
2 being president.
3 Q Did Barack Obama and Hillary Clinton both
4 compete heavily for the -- for a win in
5 Alabama in the 2008 primary?
6 A I -- I don't think that they competed
7 heavily because as I recall, I -- I don't
8 recall either one of them competing
9 heavily. When -- when Alabama New South
10 did its endorsement, I don't think either
11 one of them showed up. I -- I think when
12 ADC did its endorsement, I don't think
13 that either one of them showed up. And I
14 don't think their appearances in Alabama
15 were substantially limited, but --
16 Q Do you --
17 A I think some -- I think some of us worked
18 hard for a president -- I mean Senator
19 Obama and I think some others worked hard
20 for Senator Clinton.
21 Q Do you remember then Senator Obama having
22 a campaign office in Montgomery for the
23 primary?

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1 A I don't recall a campaign office in
2 Montgomery.
3 Q Do you remember former president Bill
4 Clinton coming to campaign on behalf of
5 his wife in advance of the primary over
6 at Fairfield College?
7 A I think so, I don't remember that clearly
8 but I think he may have come.
9 Q Do you remember --
10 A I remember there was efforts -- there was
11 a lot of efforts to try to get Hillary
12 Clinton to come to Alabama and a lot of
13 efforts to try to get President Obama to
14 come to Alabama and I remember most of
15 those were fruitless.
16 Q Was it your perception that following the
17 primaries neither Senator Obama nor
18 Candidate Clinton continued to compete in
19 Alabama in advance of the general
20 election?
21 A I -- that's -- it's -- it's my perception
22 that -- that they did not consider
23 Alabama a contested state and therefore

<p style="text-align: right;">Page 193</p> <p>1 did not put time, effort, and resources 2 into Alabama. 3 Q Senator, do you have a driver's license? 4 A Yes. 5 Q Is it a STAR ID? 6 A No. I don't think so. You can -- you 7 can check it but I don't think it's a 8 STAR ID. I think when they were doing 9 the STAR IDs I had some -- some emergency 10 and it wasn't there and -- a STAR ID 11 ought to have a star on it; right? 12 Q That's right. 13 A Mine has a little heart on it. I see a 14 little heart down in the right-hand 15 corner. 16 Q I think that makes you an organ donor? 17 A Oh, okay. 18 Q There's a sample of my colleague's with a 19 star in the corner? 20 A No, I don't qualify. 21 Q Do you know what the STAR ID is? 22 A I think it has to do something with -- 23 with some kind of limited security</p>	<p style="text-align: right;">Page 195</p> <p>1 Q Do you use it to get in courthouses? 2 A I have -- I use it to get into the 3 federal courthouse. Generally most of 4 the state courthouses I go into they know 5 me and they wave me on through, but I 6 know I've had to use it in the federal 7 courthouse. 8 Q Did you attend the Democratic National 9 Convention last year? 10 A Yes. 11 Q Were you required to show a photo ID to 12 get in there? 13 A Yes. Well, I was required to -- no. I 14 was -- well, I was required to show a 15 badge. We had badges and if you had your 16 badge on, they let you on in. 17 Q Did -- how did you get your badge? 18 A The state -- the leader of the state 19 delegation handed them out. 20 Q Did the badge have a photo on it? 21 A No. 22 Q Did you have to show an ID to actually 23 vote at the convention?</p>
<p style="text-align: right;">Page 194</p> <p>1 clearance. That's what I assume but I 2 don't -- I don't -- to be honest, I 3 really don't know. I know that they set 4 up an opportunity for legislators to do 5 it and I know I couldn't make it. 6 Q When you say you couldn't make it, you 7 meant for a special opportunity for 8 legislators? 9 A Yes. They were doing something in the 10 capitol. They had something set up in -- 11 well, the Alabama Statehouse. 12 Q Are you familiar with the Real ID Act? 13 A No. 14 Q Other than driving, what do you use your 15 driver's license for? 16 A I use it each time I get on the plane. I 17 use it when I go to vote. I use it when 18 I'm in various commercial transactions. 19 Q I'm -- 20 A Various commercial transactions. 21 Q So to make certain purchases or certain 22 returns? 23 A Yeah.</p>	<p style="text-align: right;">Page 196</p> <p>1 A No. 2 Q So if it was reported -- did a member of 3 the general public have to show a photo 4 ID to gets into the National Democratic 5 Convention? 6 A I don't know that. There was -- there 7 was a person with me who was not a 8 delegate and -- but we managed to get 9 badges for her and that's all they had to 10 show. 11 Q I'd like to show you Defendant's Exhibit 12 1, which is a "Yellowhammer" article, 13 which represents that DNC delegates were 14 required to show photo ID in order to 15 vote. Would you please review that 16 article for a moment. 17 (Defendant's Exhibit 1 was 18 marked for 19 identification.) 20 A That didn't happen to me. 21 Q Okay. 22 A And didn't happen to any of the other 23 delegates I knew. They would give the --</p>

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1 whoever was your state or key -- key
2 person or chair of the delegation, they
3 would give the badges to them and they
4 would simply give them out. This one --
5 I don't know what happened with others,
6 but there was no requirement to do that.
7 Q Thank you.
8 Do you have other photo IDs that you
9 could use to vote besides your driver's
10 license?
11 A No. Well -- no, no, I don't. I have a
12 Senate photo ID but it's not in the name
13 of Henry Sanders and they wouldn't let
14 me -- it's in the name of Hank Sanders
15 and I couldn't use that.
16 Q How do you know you couldn't use that?
17 A Because they told me.
18 Q Who told you?
19 A The voter registrars there.
20 Q So is it your testimony that you are
21 registered to vote in the name Henry
22 Sanders?
23 A Yes.

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1 Q And your Senate ID card says Hank
2 Sanders?
3 A That's right. Said it's got to be in
4 Henry Sanders.
5 Q And that was the board of registrars in
6 Dallas County that told you that?
7 A Not the board of registrars, the election
8 officials.
9 Q At the polls?
10 A Yes. Said you have to have to
11 identification in your birth name.
12 Q Did you try to use your Senate ID to vote
13 and they refused to accept that ID?
14 A No. But I had a discussion with them
15 about it on one occasion. I think I
16 accidentally -- I had them both in my
17 wallet and I accidentally pulled them
18 out.
19 Q The Senate ID that you have, is that
20 same -- that same form of ID offered to
21 the Alabama Senate?
22 A Yes.
23 Q And do Alabama House members also have

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1 the opportunity to get an Alabama House
2 ID?
3 A Yes.
4 Q You made mention earlier of Senate
5 Sketches. Is that a weekly article that
6 you write?
7 A Yes.
8 Q You've been doing that for 30 years?
9 A 1,546 straight weeks without a miss.
10 Q And those Senate Sketches reflect your
11 views at the time that they're written?
12 A Yes.
13 Q You talked earlier with Mr. Ross about
14 the Marion Three case?
15 A Yes.
16 Q Were the alleged victims in that case
17 black?
18 A Yes.
19 Q Were -- I believe that you mentioned that
20 whites had complained and that that
21 prompted the prosecution. Had any blacks
22 also complained?
23 A No. At that time, I didn't know of any

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1 blacks. I have since in the last year or
2 two heard that somehow some blacks
3 have -- have complained but none of that
4 came up at that time. I was -- I was
5 involved because they had complained to
6 me. And so when local officials didn't
7 respond or state officials didn't
8 respond, we worked out for two of them to
9 go to Washington, DC, and they literally
10 met with the attorney general at that
11 time and I think that's Mr. Meese.
12 Q You're saying that -- you're referring to
13 the time when black voters complained to
14 you about election fraud by whites --
15 A Yes.
16 Q -- and trying to get prosecution then?
17 A Yes.
18 Q Are you -- but did you also just say that
19 there were, in fact, blacks who testified
20 that they had been the victims of crimes
21 that were the subject of the Marion Three
22 trial?
23 A I don't understand that question.

<p style="text-align: right;">Page 201</p> <p>1 Q When the Marion Three were prosecuted, 2 were the sole -- are the -- were the 3 complaints that prompted the Marion Three 4 trial brought by whites and blacks? 5 A I don't know of any blacks that brought. 6 What I said is that recently I -- I have 7 heard that somehow they said that there 8 was some blacks but at that time I know 9 it was whites who were complaining. 10 Q Okay? 11 A And -- but I also know that most of the 12 witnesses in that trial were black and I 13 know that they told the truth when they 14 were there to be cross-examined and the 15 jury -- their testimony was not the same 16 as it was in that attorney general's -- I 17 mean, in the -- in the grand jury because 18 we had copies of the grand jury 19 testimony. 20 Q Was there enough evidence presented to go 21 to the jury? 22 A There was -- most of the cases were 23 dismissed but that was by the judge. I</p>	<p style="text-align: right;">Page 203</p> <p>1 MR. ROSS: Objection. 2 Speculation. Form. 3 A If there were concerns in the black belt, 4 some of the victims certainly could be 5 black but some of the victims might also 6 be white. 7 Q Okay. You would agree, of course, that 8 it's not right for anyone to commit voter 9 fraud no matter what their color is? 10 A I agree. 11 MR. ROSS: Objection. 12 Speculation. Form. 13 Q Are you familiar with the prosecution of 14 Maggie Bozeman and Julia Wilder? 15 A Yes. 16 Q Are you aware that they were convicted of 17 absentee vote fraud? 18 A Yes. 19 MR. ROSS: Objection. 20 Speculation. Form. 21 Q Are you aware that Judge Hobbs granted 22 habeas relief to those defendants in 23 federal court based on closing arguments</p>
<p style="text-align: right;">Page 202</p> <p>1 shouldn't say most. Many of them were 2 dismissed by the judge but there was some 3 that went to the jury, yes. 4 Q If there's a concern of voter fraud in 5 the black belt, aren't any many victims 6 of such fraud, if it's happening, likely 7 to be black? 8 A There were some concerns in the black 9 belt. In fact, there are concerns quite 10 a few places that are not in the black 11 belt but there are some concerns. I have 12 registered some concern myself. I -- 13 I -- there was some things happening down 14 in Wilcox County and we complained to the 15 attorney general about them and I -- I 16 never heard of anything really coming of 17 that, but yes. 18 Q I -- I believe your answer went to 19 whether concerns exist. But if -- if 20 there were -- if there were to be 21 election fraud in the black belt, 22 wouldn't many of the victims of such a 23 fraud be black?</p>	<p style="text-align: right;">Page 204</p> <p>1 that have been made? 2 A I don't remember details of it. I just 3 remember that something was set aside. 4 Q Are you aware after Judge Hobbs granted 5 habeas, the Alabama legislature made it 6 clear to the Attorney General's Office 7 that if the attorney general pursued an 8 appeal in that case then its funding 9 would be affected? 10 A I never heard that before. 11 Q Do you remember when Maggie Bozeman and 12 Julia Wilder were prosecuted? 13 A It -- it -- I -- I think -- I think 14 either it was in the late '70s or the 15 early '80s. I can't remember the exact 16 time. 17 Q At that time, was the legislature led by 18 Democrats? 19 A Yes. 20 Q Are you aware that there have frequently 21 been allegations of various election 22 irregularities in Alabama? 23 MR. ROSS: Objection.</p>

<p style="text-align: right;">Page 205</p> <p>1 Speculation. Form.</p> <p>2 A I -- I -- I am aware that there have been</p> <p>3 allegations of election irregularities</p> <p>4 but none that had to do with ID at the</p> <p>5 polls.</p> <p>6 Q Can I refer you back to Plaintiff's</p> <p>7 Exhibit 1. I'd like to ask you to look</p> <p>8 at the second page about halfway down.</p> <p>9 A The second page?</p> <p>10 Q Yes.</p> <p>11 A Halfway down?</p> <p>12 Q There's a paragraph there that begins:</p> <p>13 The State Attorney General's Office and</p> <p>14 federal investigators are looking into</p> <p>15 allegations of absentee ballot fraud and</p> <p>16 other voting irregularities.</p> <p>17 A Yes.</p> <p>18 Q Does that article report that there are</p> <p>19 investigations at least in four Alabama</p> <p>20 counties?</p> <p>21 A Yes, I see that. I see that paragraph.</p> <p>22 Q Are you aware that there have been</p> <p>23 convictions for election crimes in this</p>	<p style="text-align: right;">Page 207</p> <p>1 identification.)</p> <p>2 Q Defendant's Exhibit 2 is an article</p> <p>3 entitled Appeals Court Upholds Dothan</p> <p>4 Woman's Voter Fraud Conviction" and</p> <p>5 Defendant's Exhibit 3 is "Alabama Woman</p> <p>6 Found Guilty of 24 Counts of Felony Voter</p> <p>7 Fraud."</p> <p>8 Are you familiar with this case</p> <p>9 involving the 2013 Dothan municipal</p> <p>10 election?</p> <p>11 A No.</p> <p>12 Q Were you aware that one of the absentee</p> <p>13 ballots cast in that case was cast by a</p> <p>14 family member of an inmate using the</p> <p>15 inmate's photo ID while the inmate was</p> <p>16 incarcerated?</p> <p>17 A No.</p> <p>18 Q Were you aware that one of the absentee</p> <p>19 ballots in that case was cast without the</p> <p>20 voter's knowledge and that she testified</p> <p>21 that she had only given her photo ID to</p> <p>22 be used for voter registration purposes?</p> <p>23 A No.</p>
<p style="text-align: right;">Page 206</p> <p>1 state as recently as at least the 2013</p> <p>2 elections?</p> <p>3 MR. ROSS: Objection.</p> <p>4 Form. Speculation.</p> <p>5 A No. I don't know of any convictions in</p> <p>6 the 2013 election. I just know that --</p> <p>7 that the -- that the allegations -- that</p> <p>8 no legislation -- really to deal with the</p> <p>9 real problems. It is only to deal with</p> <p>10 the photo ID which suppress the black</p> <p>11 vote.</p> <p>12 Q I would ask you to please confine your</p> <p>13 answers relative to my questions.</p> <p>14 A I think that went to your question.</p> <p>15 Q Well, I would disagree.</p> <p>16 A Okay.</p> <p>17 Q I'm going to hand you Defendant's Exhibit</p> <p>18 2 and 3.</p> <p>19 (Defendant's Exhibit 2 was</p> <p>20 marked for</p> <p>21 identification.)</p> <p>22 (Defendant's Exhibit 3 was</p> <p>23 marked for</p>	<p style="text-align: right;">Page 208</p> <p>1 Q I'm sorry. Could you give that one to</p> <p>2 him, please? Thank you.</p> <p>3 Let me give you now Defendant's</p> <p>4 Exhibit 4.</p> <p>5 (Defendant's Exhibit 4 was</p> <p>6 marked for</p> <p>7 identification.)</p> <p>8 Q I am going to give you Defendant's</p> <p>9 Exhibit 4. "Alabama Secretary of State:</p> <p>10 Still no movement on voter fraud laws" is</p> <p>11 the title of this article.</p> <p>12 Do you see that in this article, the</p> <p>13 secretary of state is expressing support</p> <p>14 for a bill that would allow for the</p> <p>15 removal of people who have won their</p> <p>16 elections as a result of election fraud</p> <p>17 as happened with the 2013 municipal</p> <p>18 election in Dothan?</p> <p>19 A No, I'm not familiar with this. This is</p> <p>20 the first I've heard of that.</p> <p>21 Q I believe this article is actually dated,</p> <p>22 yeah, two days ago?</p> <p>23 A No, I'm not familiar with it.</p>

<p style="text-align: right;">Page 209</p> <p>1 Q Do you see on the second page of the</p> <p>2 exhibit where Amos Newsome defeated his</p> <p>3 opponent by 14 votes after receiving 119</p> <p>4 of the 124 absentee votes cast?</p> <p>5 A I see the paragraph that contains that,</p> <p>6 yes.</p> <p>7 Q Okay.</p> <p>8 MR. ROSS: Objection.</p> <p>9 Form. Speculation.</p> <p>10 Q Of course, you see the next sentence that</p> <p>11 says the trial found that 42 of the votes</p> <p>12 had been fraudulently cast?</p> <p>13 MR. ROSS: Objection.</p> <p>14 Form. Speculation.</p> <p>15 A The next paragraph?</p> <p>16 Q The next sentence.</p> <p>17 A Yes, I see that. This is the first time</p> <p>18 I've seen that.</p> <p>19 Q Are you aware that one of the persons</p> <p>20 convicted as a result of this election</p> <p>21 was the long-time girlfriend of the</p> <p>22 candidate Newsome?</p> <p>23 A No, not at all.</p>	<p style="text-align: right;">Page 211</p> <p>1 first paragraph do you see that Shasta</p> <p>2 Nicole Creighton was charged with</p> <p>3 illegally or fraudulently voting using</p> <p>4 the name Angela Creighton?</p> <p>5 A Yes.</p> <p>6 Q And do you see on page 3 of Exhibit 5 a</p> <p>7 plea agreement that represents that</p> <p>8 Shasta Nicole Creighton pled guilty to</p> <p>9 that first count that we just discussed?</p> <p>10 A I do see a plea agreement.</p> <p>11 Q Do you understand the plea agreement to</p> <p>12 say that she has pled guilty?</p> <p>13 A Yes.</p> <p>14 Q Does this change your view that there's</p> <p>15 no such thing as voter impersonation in</p> <p>16 Alabama?</p> <p>17 A Well, I don't think I said there was no</p> <p>18 thing. My position is that any instances</p> <p>19 are extremely rare and they do not</p> <p>20 justify at all voter ID and if I</p> <p>21 recall -- let me see -- and I -- I think</p> <p>22 what -- this is from 2002. Somewhere in</p> <p>23 2002.</p>
<p style="text-align: right;">Page 210</p> <p>1 Q You testified here today that you're not</p> <p>2 aware of any person -- voter fraud. I'd</p> <p>3 like to hand you Defendant's Exhibits 5</p> <p>4 and 6 and ask you to take a look at them.</p> <p>5 (Defendant's Exhibit 5 was</p> <p>6 marked for</p> <p>7 identification.)</p> <p>8 (Defendant's Exhibit 6 was</p> <p>9 marked for</p> <p>10 identification.)</p> <p>11 Q Five starts with an indictment of Shasta</p> <p>12 Nicole Creighton, and 6 is a document</p> <p>13 signed by the circuit judge relating to</p> <p>14 the sentence of Ms. Creighton. Do you</p> <p>15 see on -- in count one of the indictment</p> <p>16 on the first page, in the first paragraph</p> <p>17 in Exhibit 5 that Shasta Nicole Creighton</p> <p>18 was charged with illegally or</p> <p>19 fraudulently voting using the name of</p> <p>20 Angela Creighton?</p> <p>21 A Okay. What's your question?</p> <p>22 Q My question was: On the first page of</p> <p>23 the indictment, which is Exhibit 5 in the</p>	<p style="text-align: right;">Page 212</p> <p>1 Q It looks like it concerns the 2002</p> <p>2 general election?</p> <p>3 A Yeah, yeah.</p> <p>4 Q I'm going to hand you Defendant's Exhibit</p> <p>5 7, which is Senate Sketch 1425.</p> <p>6 (Defendant's Exhibit 7 was</p> <p>7 marked for</p> <p>8 identification.)</p> <p>9 Q You wrote this?</p> <p>10 A Yes.</p> <p>11 Q Do you see on the second page where you</p> <p>12 say -- let's see. It is the third full</p> <p>13 paragraph, the third sentence the bottom.</p> <p>14 "There is simply no voter fraud by</p> <p>15 persons pretending to be others to vote"?</p> <p>16 A The third -- the one that starts with "to</p> <p>17 make matters worse"?</p> <p>18 Q Yes, that paragraph to the end.</p> <p>19 A To makes matters worse, there is</p> <p>20 absolutely no need for voter ID. It does</p> <p>21 not prevent voter fraud and it prevents</p> <p>22 hundreds of thousands from voting.</p> <p>23 Q Yes, sir. That's the correct paragraph.</p>

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1 Do you see the third paragraph from the
2 end where it says: "There simply is no
3 voter fraud by persons pretending to be
4 others to vote"?

5 A Yes. I see that paragraph and I don't
6 consider one example to -- to nullify my
7 statement whatsoever.

8 Q I'd like to show you now Defendant's
9 Exhibit Number 8. "Baldwin man convicted
10 of fraud voted regularly under name of
11 U.S. citizen records show" is the name of
12 that article.

13 (Defendant's Exhibit 8 was
14 marked for
15 identification.)

16 Q Could you please take a look at it for
17 me?

18 A I've looked at it.

19 Q Do you see that this article represents
20 that a man named Hernandez-Hernandez has
21 been prosecuted by the federal government
22 for social security fraud and theft of
23 government funds?

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1 A Yes.

2 Q All right. I'd like to hand you
3 document, Defendant's Exhibit Number 9,
4 which is the docket sheet in that federal
5 case.

6 (Defendant's Exhibit 9 was
7 marked for
8 identification.)

9 Q I'd like you to take a look at that and
10 confirm for me that he has, in fact, been
11 convicted of those or pled guilty to
12 those two crimes.

13 (At which time, the
14 witness reviews the
15 exhibit.)

16 A Yes. It appears -- it appears that he
17 was convicted of social security fraud
18 and theft of public money.

19 Q Returning to Defendant's Exhibit Number
20 8, do you see that as the article
21 continues it says that he might have also
22 been charged with crimes related to voter
23 fraud?

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1 A Yes, I -- I see they said he could have
2 been charged. I don't see where he was
3 charged.

4 Q Right. Can we go off the record for just
5 a minute?

6 VIDEOGRAPHER: Going off
7 the record at 4:10.
8 (At which time, a break
9 was held.)

10 VIDEOGRAPHER: This begins
11 disk five. Going back on the
12 record at 4:25.

13 BY MS. MESSICK:

14 Q Senator Sanders, we were just looking at
15 Defendant's Exhibit Number 8 which is the
16 article concerning
17 Mr. Hernandez-Hernandez?

18 A Yes.

19 Q Do you see on page 2 of that article it
20 makes mention of the Secretary of State's
21 Office indicating that its records show
22 that Mr. Hernandez-Hernandez had voted in
23 five elections? And, actually, let me

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1 back up. I'm not sure if you've had a
2 chance to read the whole thing. If
3 you'll look at the second paragraph of
4 Defendant's Exhibit 8.

5 Do you see that
6 Mr. Hernandez-Hernandez was living under
7 the name of Benavidez?

8 A Yes, I see that.

9 Q And then returning to page 2 of
10 Defendant's Exhibit 8, do you see that
11 the Secretary of State's Office is -- the
12 article reports that the Secretary of
13 State's Office said that Mr. Benavidez
14 had voted in five different elections?

15 A Yes, I see that.

16 Q All right. I'm going to hand you
17 Defendant's Exhibit Number 10. This
18 document is entitled "Individual Living
19 History Report."

20 (Defendant's Exhibit 10
21 was marked for
22 identification.)

23 Q I will represent that this is a document

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1 from the Alabama Secretary of State's
2 Office which substantiates what is
3 reported in Exhibit 8. Do you see that
4 this report shows that Ms. -- a man
5 using -- I'm sorry.
6 Do you see that this report says
7 that Benavidez voted in the 1996 general
8 election, the 2002 primary election, a
9 2003 local election, the 2008 general
10 election, and a 2009 Perdido Beach
11 election?
12 A I see that on this document.
13 Q And do you see in the right -- on the
14 right-hand side of the document that for
15 each of these elections, the document
16 reflects that the voting took place at
17 the polling place?
18 A Yes, I see that.
19 Q Does this -- do Defendant's Exhibits 8,
20 9, and 10 change your mind about voter
21 impersonation crimes happening in
22 Alabama?
23 A No. And the reason it doesn't, this is

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1 someone who wasn't impersonating somebody
2 to vote. He was impersonating somebody
3 generally and -- and he was voting as a
4 part of that. So he had assumed
5 somebody's identity generally. So I -- I
6 don't see that's where he was pretending
7 to be somebody else to vote. He was
8 pretending to be somebody else and he
9 voted in the process.
10 Second, it doesn't change my mind
11 because we've had millions of votes cast
12 in Alabama since 2000 or 2002 and a few
13 instances doesn't change that whatsoever.
14 To me, the real voter fraud is the -- is
15 voter ID that prevent hundreds of
16 thousands of people from vote not these
17 few examples.
18 Q Again, I'd ask you to confine your
19 response to the question and I'm going to
20 object to that answer.
21 A But you asked me if that changed my mind
22 and I just told you no it didn't and told
23 you why.

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1 Q Okay. Are you aware that the Secretary
2 of State's Office received numerous
3 complaints of election irregularities
4 following the August 2016 municipal
5 elections?
6 A No.
7 MR. ROSS: Objection.
8 Calls for speculation. You've
9 been saying absentee -- or
10 you've been saying voter fraud.
11 You've been saying
12 irregularities and you haven't
13 defined any of those terms.
14 I'm just going to have a
15 running objection every time
16 you say voter fraud and don't
17 say what you mean and when you
18 say irregularities and don't
19 say what you mean.
20 Q Sir, I'm going to hand you Defendant's
21 Exhibit 11 entitled "Candidate Under
22 Investigation."
23 (Defendant's Exhibit 11)

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1 was marked for
2 identification.)
3 Q Do you see that this article reports that
4 a mayoral candidate is being investigated
5 for voter fraud after more than 80
6 absentee applications were mailed to his
7 home?
8 A Yes.
9 Q Okay. So I'm going to hand you
10 Defendant's Exhibit Number 12.
11 (Defendant's Exhibit 12
12 was marked for
13 identification.)
14 Q Do you see that this article as well
15 deals with reports on a claim that
16 absentee voting in the Brighton municipal
17 election?
18 A What was your question?
19 Q Do you see that it -- Defendant's Exhibit
20 12 is another article talking about
21 possible voter fraud in Brighton?
22 A Yeah. I -- I see an article entitled
23 "Complaint of Absentee Voting Filed with

<p style="text-align: right;">Page 221</p> <p>1 Secretary of State."</p> <p>2 Q Thank you. I'm going to hand you</p> <p>3 Defendant's Exhibit Number 13.</p> <p>4 (Defendant's Exhibit 13</p> <p>5 was marked for</p> <p>6 identification.)</p> <p>7 Q Do you see that this is, yet, another</p> <p>8 article about possible voter fraud under</p> <p>9 investigation in Brighton?</p> <p>10 A Yes, I -- I see the article, Defendant's</p> <p>11 Exhibit 13, yes.</p> <p>12 Q Thank you, sir. I'll show you</p> <p>13 Defendant's Exhibit 14, "Alabama election</p> <p>14 officials inundated with Hundreds of</p> <p>15 Complaints from the August 23rd Contest."</p> <p>16 (Defendant's Exhibit 14</p> <p>17 was marked for</p> <p>18 identification.)</p> <p>19 Q I'd ask you to take a look at that and</p> <p>20 tell me if that is, indeed, reporting on</p> <p>21 hundreds of election-related contests and</p> <p>22 that the election that they're talking</p> <p>23 about is August of 2016?</p>	<p style="text-align: right;">Page 223</p> <p>1 as August 2016.</p> <p>2 Q Do you see that's what the article does?</p> <p>3 A I -- I see that there is an article</p> <p>4 concerning hundreds of complaints from</p> <p>5 August of 23rd contest.</p> <p>6 Q And do you see that those are</p> <p>7 election-related complaints?</p> <p>8 A Yes.</p> <p>9 Q Thank you. The last one of these I'd</p> <p>10 like to show you, Defendant's Exhibit</p> <p>11 Number 15, entitled election "Complaints</p> <p>12 Filed with Secretary of State."</p> <p>13 (Defendant's Exhibit 15</p> <p>14 was marked for</p> <p>15 identification.)</p> <p>16 Q Do you see that this article is dated</p> <p>17 October 2016 and deals with potential</p> <p>18 voter fraud in recent elections including</p> <p>19 right here in Selma?</p> <p>20 MR. ROSS: Objection.</p> <p>21 Speculation. Form. Again,</p> <p>22 you're asking him to testify</p> <p>23 about an article that he has no</p>
<p style="text-align: right;">Page 222</p> <p>1 A Yes, I see Exhibit 14, Alabama Election</p> <p>2 Officials in Inundated of Hundreds of</p> <p>3 Complaints from August 23rd Contest.</p> <p>4 Q Do you see in the fourth paragraph the</p> <p>5 second sentence says that the Alabama</p> <p>6 Secretary of State's Office in the week</p> <p>7 after the municipal election is following</p> <p>8 up on hundreds of election-related</p> <p>9 complaints?</p> <p>10 MR. ROSS: Objection.</p> <p>11 Speculation. Form. And same</p> <p>12 objection that there's no</p> <p>13 definition of what these</p> <p>14 complaints are or what -- who</p> <p>15 made them. You're just asking</p> <p>16 him to speculate on a news</p> <p>17 article that he has no personal</p> <p>18 knowledge on.</p> <p>19 MS. MESSICK: I'm asking</p> <p>20 him to acknowledge that it's</p> <p>21 being reported in the media</p> <p>22 that there are hundreds of</p> <p>23 election complaints as recently</p>	<p style="text-align: right;">Page 224</p> <p>1 basis for his own personal</p> <p>2 knowledge about. You're</p> <p>3 talking about complaints.</p> <p>4 You're talking about</p> <p>5 indictments. You're not</p> <p>6 defining what voter fraud is.</p> <p>7 MS. MESSICK: So you</p> <p>8 object to form?</p> <p>9 MR. ROSS: I object to</p> <p>10 form.</p> <p>11 Q Senator Sanders, do you agree that this</p> <p>12 is an article reporting about potential</p> <p>13 voter fraud in recent elections in the</p> <p>14 state of Alabama including right here in</p> <p>15 Selma?</p> <p>16 A Well, I agree that -- that exhibit --</p> <p>17 Defendant's Exhibit 16 is entitled</p> <p>18 "Election Complaints Filed with Secretary</p> <p>19 of State." I agree that there was</p> <p>20 complaints about absentee ballots fraud.</p> <p>21 Q Do you know who Dallas County District</p> <p>22 Attorney Michael Jackson is?</p> <p>23 A Yes, I know him.</p>

<p style="text-align: right;">Page 225</p> <p>1 Q Do you see that he is quoted in this</p> <p>2 article saying that allegations about</p> <p>3 problems with elections are nothing new?</p> <p>4 A I see where he says these allegations are</p> <p>5 nothing new; Jackson said they go on</p> <p>6 every election.</p> <p>7 Q Jackson does go on to say that the</p> <p>8 reports are rarely founded in his view;</p> <p>9 correct?</p> <p>10 A Yes.</p> <p>11 Q Do these allegations change your mind?</p> <p>12 A Not at all.</p> <p>13 Q Would any number of allegations change</p> <p>14 your mind?</p> <p>15 A Yes.</p> <p>16 Q How many?</p> <p>17 A If they were about impersonating somebody</p> <p>18 at the poll where -- where somebody</p> <p>19 was -- where voter ID was the issue. All</p> <p>20 of these are related to absentee voting.</p> <p>21 Well, most of these are voted -- related</p> <p>22 to absentee voting. That's been a</p> <p>23 problem for years. It continues even</p>	<p style="text-align: right;">Page 227</p> <p>1 public should not be concerned about the</p> <p>2 integrity of their elections?</p> <p>3 A That's not my position at all. My</p> <p>4 position is that the remedy ought to be</p> <p>5 related to the problem and this remedy is</p> <p>6 not related to the problem. This</p> <p>7 remedy -- this -- this remedy is a</p> <p>8 problem.</p> <p>9 Q Can you name any Democrat in the Alabama</p> <p>10 legislature who supports photo ID laws?</p> <p>11 A I can't name one. No, I can't. I can't</p> <p>12 name one that does support voter photo</p> <p>13 ID. That doesn't mean that there are</p> <p>14 none, but I can't name one at this point.</p> <p>15 Q Well, can you name any Democratic office</p> <p>16 holder in the state of Alabama that</p> <p>17 supports photo ID laws?</p> <p>18 A No, I can't name one. It doesn't mean</p> <p>19 that there are none, but I can't name</p> <p>20 one.</p> <p>21 Q We talked early about -- earlier about</p> <p>22 Artur Davis. Do you remember that</p> <p>23 discussion with Mr. Ross this morning?</p>
<p style="text-align: right;">Page 226</p> <p>1 after you have photo ID. So I -- I have</p> <p>2 been complaining about photo ID --</p> <p>3 keeping people from voting and not --</p> <p>4 from -- from voting and not stopping</p> <p>5 people from fraudulently voting. So it</p> <p>6 doesn't change my mind one iota.</p> <p>7 Q Before we discuss all of -- or before we</p> <p>8 looked at these articles with the</p> <p>9 allegations from the recent elections we</p> <p>10 looked at six instances of in-person</p> <p>11 voter fraud. We know that six is not</p> <p>12 sufficient to change your mind. How many</p> <p>13 would it take?</p> <p>14 A I can't tell you how many would it take</p> <p>15 but when you've got millions, six is</p> <p>16 insignificant. When you've got millions</p> <p>17 people that have voted, six is</p> <p>18 insignificant.</p> <p>19 Q You testified that you're not familiar</p> <p>20 with the Dothan municipal election; is</p> <p>21 that correct?</p> <p>22 A That's correct.</p> <p>23 Q Is it your position that the Alabama</p>	<p style="text-align: right;">Page 228</p> <p>1 A Yes.</p> <p>2 Q When he served in the United States</p> <p>3 Congress as a representative from</p> <p>4 Alabama, was that as a Democrat?</p> <p>5 A Yes.</p> <p>6 Q And when he ran for governor in 2010, was</p> <p>7 that as a Democrat?</p> <p>8 A Yes.</p> <p>9 Q And did he subsequently become a</p> <p>10 Republican?</p> <p>11 A Well, I saw him on national TV at the</p> <p>12 Republican convention and I can only</p> <p>13 assume he became a Republican, but I</p> <p>14 don't know that.</p> <p>15 Q You testified earlier that</p> <p>16 African-Americans supported Ron Sparks in</p> <p>17 his gubernatorial race against Artur</p> <p>18 Davis?</p> <p>19 A Yes.</p> <p>20 Q Why is that so?</p> <p>21 A Well, Artur Davis announced that he was</p> <p>22 not going to come before any</p> <p>23 predominantly black groups and ask for</p>

<p style="text-align: right;">Page 229</p> <p>1 votes but he went before predominantly 2 white groups and asked for votes. And we 3 decided if that was the attitude he would 4 take, he would not make a good person to 5 represent all of the people of Alabama 6 and we opposed him vigorously. 7 Q The black groups that you're talking 8 about, are they groups that are formed 9 for the purpose of advancing the interest 10 of blacks in Alabama? 11 A Well, Alabama New South is not formed for 12 advancing the interests of blacks in 13 Alabama, because it was formed to advance 14 progress in Alabama. And it has white 15 members as well as blacks members, 16 Republicans as well as Democrats and 17 independent. And some of the other 18 groups, I can't speak for them -- I know 19 ADC is essentially all black, but I can't 20 speak for the Jefferson County Citizen 21 Coalition and some of the other groups 22 around the state. 23 Q The white groups that you said that he</p>	<p style="text-align: right;">Page 231</p> <p>1 of the answer there. 2 A Okay. 3 Q But thank you. You testified earlier how 4 everybody it seems like who was on the 5 ballot in Alabama was running against 6 President Obama; correct? 7 A Virtually. Not everybody, but nearly 8 everybody. 9 Q If we elected dogcatchers, there might 10 very well be one running against 11 President Obama? 12 A Yes. 13 Q You testified earlier -- 14 A In all my life I had never seen people at 15 local levels running against a president. 16 Q You don't remember that happening with 17 President Carter? 18 A No. I don't remember that happening with 19 any -- in my 74 years, I don't remember 20 that ever happening like that with any 21 president. 22 Q President Obama was very successful at 23 pushing through some major initiatives</p>
<p style="text-align: right;">Page 230</p> <p>1 went to, were those groups that were 2 formed to support the advancement of 3 whites in this state? 4 A I don't know whether they were or not. 5 I -- I think that anytime somebody 6 decides that they want black votes but 7 they're not going to come before any 8 black groups, it's something 9 fundamentally wrong with that. He might 10 have said, well, I'm not going to come to 11 this group or that group but he stated 12 he's not going to come before any black 13 group and ask for votes and that's -- 14 that's completely unacceptable to me. I 15 could not in good conscious support him. 16 I could not in good conscious ask 17 somebody else to support him. I -- I -- 18 I really -- I don't know this, but I 19 really think that he thought that that 20 was going to cause him to get all the 21 white votes and -- and it just didn't 22 work. 23 Q I'm going to need to object to the form</p>	<p style="text-align: right;">Page 232</p> <p>1 including the Affordable Care Act, wasn't 2 he? 3 A Yes, he succeeded in pushing through the 4 Affordable Care Act and some other 5 initiatives. 6 Q President Obama supported marriage rights 7 for gays and lesbians, didn't he? 8 A Yes. 9 Q Did President Obama have other 10 legislative and policy successes that 11 were primarily supported by persons on 12 the left end of the political spectrum? 13 A I can't think of any in particular but I 14 believe that there probably were. I know 15 that President Johnson supported civil 16 rights and -- and nobody was running 17 against him. I was grown at the time and 18 he -- and civil rights was strongly 19 objectionable, but I don't remember any 20 local officials running against President 21 Johnson in '64. 22 Q And is that -- 23 A And I don't remember any presidential --</p>

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1 any -- any presidential candidate being
2 run against in that kind of way other
3 than President Obama.

4 Q And is that your basis for believing that
5 so many people running against him was
6 because of race and not because they were
7 just politically opposed to his views?

8 A Well, I think that race was a powerful
9 symbol, a powerful factor and that he
10 became a symbol of that. I had never
11 seen any other president -- they all --
12 all 43 before him were white and I never
13 saw it happen. He comes along, number
14 44, and he's black and it happens and I
15 don't think it was by accident.

16 Q I want to return to Artur Davis for just
17 a moment. I'm going to hand you
18 Defendant's Exhibit 16.

19 (Defendant's Exhibit 16
20 was marked for
21 identification.)

22 Q This is an opinion piece in which
23 Mr. Davis says that he should have

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1 supported voter ID laws when he was in
2 office?

3 A Is there anyway to tell when this was
4 written?

5 MR. ROSS: In the corner
6 there.

7 A At least 2015, I guess.

8 Q Well, it was written while he was a
9 Republican. We know that. It was --

10 MR. ROSS: I believe it's
11 in the upper left-hand corner.

12 MS. MESSICK: October of
13 2011.

14 MR. ROSS: Yeah.

15 MS. MESSICK: Is that what
16 you read?

17 MR. ROSS: It looks like
18 October of 2011, yeah.

19 Q And you can see he is identified at the
20 bottom of the article as a former U.S.
21 congressman and if it was 2011 it would
22 have been after he had run for governor
23 in 2010 here in Alabama.

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1 I just want to ask you the first --
2 well, the second, third, and fourth
3 paragraphs. Do you see that Mr. Davis
4 says that while he was in Congress he
5 encountered various activists who contend
6 that requiring photo identification to
7 vote is a suppression tactic and that he
8 then goes onto talk about the fact that
9 he, himself, is well aware of the, quote,
10 wholesale manufacture of ballots at the
11 polls and absentee voting in the black
12 belt?

13 A I see where he says that.

14 Q Okay.

15 A That's the same man that refused to go
16 before black groups and now he's accusing
17 black people of wholesale voter fraud.
18 There's something wrong with that.

19 Q Where do you see that he says who is
20 committing the fraud?

21 A It's a suppression tactic aimed at
22 thwarting black voter participation. In
23 a previous paragraph, suppression in the

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1 African-American community in the third
2 paragraph.

3 Q Are you assuming that only whites can
4 suppress the votes of blacks?

5 A No. Blacks can certainly support the
6 votes of blacks but those who are in
7 power who pass laws to make it more
8 difficult to vote, they suppress hundreds
9 of thousands. There may be blacks that
10 support -- that suppress a few here and
11 there or some here and there but that's a
12 whole different matter.

13 Q Do you see in the fourth paragraph where
14 he says, "If you doubt it exists, I
15 don't. I've heard the peddlers of these
16 ballots brag about it. I've been asked
17 to provide funds for it. I am confident
18 that it has changed at least a few close
19 local election results."

20 It's the end of the fourth
21 paragraph.

22 A Well, I -- I -- I see that.

23 Q I understand him to be making those

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1 representations based on his time as a
2 candidate and elected official. You've
3 been serving since 1983. Have you shared
4 this experience? Have you seen what he
5 says he has seen?

6 A No, I haven't and I've been on the
7 ground. I've been campaign chairman.
8 I've been voter registration chairman.
9 I've been mobilization chairman and the
10 amount of irregularities I have found was
11 small compared to the huge number of
12 people who voted.

13 Q Tell me about Ms. Amelia Boyton?

14 A Ms. Amelia Boyton died recently at 110
15 years of age. Ms. Boyton and her
16 husband, Samuel Boyton, started trying to
17 register blacks and get black folks to
18 buy land in the '30s and she continued in
19 an effort to try to get black folks
20 involved in the political process and the
21 economic process from the 1930s up until
22 the time she died a couple of years ago.

23 Q Was Ms. Boyton black?

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1 A Yes.

2 Q When she died at the age of 110, did she
3 have a driver's license?

4 A Yes. I know she had a driver's license
5 because I went to the hospital to see her
6 and there was a debate going on about
7 whether she was 103 or 110 and we had
8 looked up her age in the census and knew
9 she was 110 and Bruce Boyton's wife, her
10 daughter-in-law -- either Bruce Boytin's
11 wife or the other lady who was there
12 pulled out her driver's license. I don't
13 even -- to be honest with you, I don't
14 remember what the driver's license said
15 but I know they pulled out her driver's
16 license and I believe her driver's
17 license may have said she was 110 but we
18 had looked it up in the census, the U.S.
19 census.

20 Q Okay. Thank you. I'd like to show you
21 two more exhibits. These will be number
22 17 and 18.
23 (Defendant's Exhibit 17

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1 was marked for
2 identification.)
3 (Defendant's Exhibit 18
4 was marked for
5 identification.)

6 Q Number 17 is "Two Detroit men busted in
7 Alabama with 177 stolen identities" and
8 Number 18 is Jeff -- "Jeff Co. Department
9 of Revenue clerk charged with selling
10 fake driver's licenses."

11 Do you agree that identity theft is
12 a problem today?

13 A Yes.

14 Q Are you familiar with the company
15 LifeLock?

16 A I've heard the name. I've heard the name
17 either on TV or radio or both.

18 Q Okay. Do you understand that that
19 company basically promotes a product of
20 trying to help prevent identity theft and
21 then should you suffer -- should your
22 identity be stolen to try and help you
23 restore it?

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1 A I think I've heard them say that in ads.

2 Q Are you aware of anything like LifeLock
3 existing in 1980?

4 A No.

5 Q I'd like to refer you back to Plaintiff's
6 Exhibit Number 1. It was one of the news
7 articles that Mr. Ross started with. The
8 second paragraph from the bottom, I put
9 an asterisk on my copy. Senator Sanders,
10 do you see that in that paragraph you're
11 quoted as saying: "We haven't had a
12 voter ID requirement for 178 years"?

13 A Oh, okay. Yes, I see that.

14 Q Would you agree that identity theft was
15 not a problem 178 years ago or even 50
16 years ago --

17 MR. ROSS: Objection.

18 Q -- in the way that we deal with it now?

19 MR. ROSS: Speculation.

20 Form.

21 A Yes, I agree identity theft is a much
22 greater problem now than it was 178 years
23 or 50 years or even 20 years ago. The

<p style="text-align: right;">Page 241</p> <p>1 problem is if -- if it's identity 2 theft -- if somebody's stealing your 3 identity having a driver's license 4 doesn't deal with it because they create 5 that identity and use it to be able to 6 vote. So instead of cutting against 7 identity, what it does is -- when -- 8 on -- on Exhibit 3 here -- no. 9 Exhibit 17 Detroit man busted, if 10 they got stolen identities, then that 11 doesn't, in any kind of way, make it more 12 difficult for them to vote. They -- they 13 use the stolen identity to be able to 14 vote, just like driver's license or photo 15 ID or whatever ID it is. I just don't 16 see where that, in any kind of way, 17 changes the role of photo ID that stops 18 hundreds of thousands of people from 19 voting. 20 Q Thank you. Could I get this exhibit 21 back, please? 22 A Okay. Yeah. 23 Q Thank you. Would you agree that one way</p>	<p style="text-align: right;">Page 243</p> <p>1 A Yes. 2 Q Where do you go when you need to get your 3 driver's license renewed? 4 A I go to the Dallas County Courthouse. 5 Q What office do you go to at the Dallas 6 County Courthouse? 7 A I go to the driver's license office. 8 Q Is that a probate office, a revenue 9 commissioner, a license commissioner, or 10 an Alabama law enforcement agency office? 11 A Alabama law enforcement agency office. 12 Q Are you aware that you can renew your 13 license at a judge of probate office or a 14 revenue commissioner or a license 15 commissioner in any county in the state? 16 A I have heard that recently but I 17 didn't -- I didn't hear that before. The 18 whole issue came up about closing 19 driver's license offices. 20 Q Are you aware that you can renew your 21 license online? 22 A No. 23 Q I don't want to get into the entire</p>
<p style="text-align: right;">Page 242</p> <p>1 identity theft is committed by persons 2 who steal important documents from the 3 trash of their victims? 4 A Say what? 5 MR. ROSS: Objection. 6 Speculation. Form. 7 Q Would you agree one way identity theft is 8 committed is by persons stealing 9 important documents from the trash of 10 their victims? 11 MR. ROSS: Same objection. 12 A I think that's possible. 13 Q Do you think it's possible that somebody 14 could use your utility bill? 15 MR. ROSS: Objection. 16 Speculation. 17 A I think that's possible. 18 Q I'd like to talk about the forms of photo 19 ID that are accepted under the law that's 20 being challenged here. Your testimony is 21 made clear that you're aware a driver's 22 license or nondriver ID would be an 23 acceptable form of identification?</p>	<p style="text-align: right;">Page 244</p> <p>1 discussion of the so-called office 2 closures yet. 3 A Okay. 4 Q But is it your understanding that before 5 the, quote, office closures in the fall 6 of 2015 that those offices were opened 7 five days a week, eight hours a day? 8 A No, that's not my understanding. My 9 understanding is that it varied from 10 county to county. 11 Q Were they generally open one or two days 12 a week or less? 13 A My -- my understanding that -- that most, 14 if not all of them, were generally opened 15 at least a week, something weekly. 16 Q Okay. 17 A Within a week. But I -- I don't know -- 18 I don't know about the individual 19 offices. I didn't -- I didn't -- I 20 didn't try to check to see what -- how 21 much they was open. I was concerned that 22 they were closed altogether and then 23 whenever they made a change, it was once</p>

<p style="text-align: right;">Page 245</p> <p>1 a month and either way that was a lot</p> <p>2 less than it used to be.</p> <p>3 Q You've also talked here today about the</p> <p>4 free Alabama photo voter ID card --</p> <p>5 MR. ROSS: Objection.</p> <p>6 Form. I'm sorry.</p> <p>7 Q You're shaking your head yes?</p> <p>8 A No, no. I was waiting until you finished</p> <p>9 your question.</p> <p>10 Q Okay.</p> <p>11 A I didn't think you had finished your</p> <p>12 question. I'm sorry.</p> <p>13 Q Well, I apologize for confusing</p> <p>14 everybody.</p> <p>15 MR. ROSS: No. I'm sorry.</p> <p>16 I'm sorry.</p> <p>17 Q You're aware that the Alabama photo voter</p> <p>18 ID card is an acceptable form of voter ID</p> <p>19 for voters?</p> <p>20 A Yes.</p> <p>21 Q And you're aware you can get that card</p> <p>22 from the board of registrars or from the</p> <p>23 mobile units or from the Secretary of</p>	<p style="text-align: right;">Page 247</p> <p>1 also possess another form of acceptable</p> <p>2 ID.</p> <p>3 MR. ROSS: Objection.</p> <p>4 Speculation. Form. Calls for</p> <p>5 a legal conclusion.</p> <p>6 Misty, do you want to</p> <p>7 direct the Senator to a</p> <p>8 portion?</p> <p>9 MS. MESSICK: Well, since</p> <p>10 I don't believe it's there, I</p> <p>11 think it would be awkward to</p> <p>12 direct him to the paragraphs</p> <p>13 that might possibly be</p> <p>14 confusing him.</p> <p>15 MR. ROSS: Would you</p> <p>16 object if I directed him to the</p> <p>17 section that he may be thinking</p> <p>18 about?</p> <p>19 MS. MESSICK: You go right</p> <p>20 ahead.</p> <p>21 A Well, let me just say the provision -- it</p> <p>22 started with provision G and I -- I may</p> <p>23 be remembering the law before it was</p>
<p style="text-align: right;">Page 246</p> <p>1 State's Office at the capitol?</p> <p>2 A Yes.</p> <p>3 Q You testified earlier today, if I</p> <p>4 understood you correctly, that it is a</p> <p>5 crime to have that card if you have</p> <p>6 another form of photo identification? Is</p> <p>7 that your understanding?</p> <p>8 A That's my understanding.</p> <p>9 Q What is your basis for believing that?</p> <p>10 A When we were having analysis of it and</p> <p>11 discussions of it, that's -- that's --</p> <p>12 that's what it was based on.</p> <p>13 Q I'd like to show you Defendant's Exhibit</p> <p>14 19, which is a copy of the statute that's</p> <p>15 being challenged in this lawsuit.</p> <p>16 (Defendant's Exhibit 19</p> <p>17 was marked for</p> <p>18 identification.)</p> <p>19 A Okay.</p> <p>20 Q And I'm going to ask you to take a look</p> <p>21 at that and see if you can tell me where</p> <p>22 the statue says that it was illegal to</p> <p>23 possess the free photo ID card if you</p>	<p style="text-align: right;">Page 248</p> <p>1 finally passed but I -- I know there</p> <p>2 was -- at the time we were considering</p> <p>3 there was something in there that</p> <p>4 provided for some criminal penalties. I</p> <p>5 don't see it now. I'm looking at it</p> <p>6 quickly but there were definitely</p> <p>7 provisions in there that had to do with</p> <p>8 criminal penalties both for having a</p> <p>9 second ID -- photo ID and for making</p> <p>10 mistakes or providing information that</p> <p>11 was incorrect.</p> <p>12 Q Well, with respect to a criminal penalty,</p> <p>13 I do see mention of a class C felony at</p> <p>14 subsection I on page 3. Would you review</p> <p>15 that and see if that might be the</p> <p>16 provision that you're thinking of?</p> <p>17 A Yes, that's -- that's one provision, but</p> <p>18 as I recall when the bill was being</p> <p>19 considered, it was also included having</p> <p>20 a -- a second identification card. I</p> <p>21 don't see it at this time, but --</p> <p>22 Q Do you understand --</p> <p>23 A Wait. Wait a minute. I'm sorry.</p>

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1 I -- I don't see anything else. Go
2 ahead.
3 Q Do you understand that the free photo ID
4 card is free to the voter but that it
5 does, in fact, cost the state money to
6 produce that card?
7 MR. ROSS: Object to the
8 form.
9 A Yes, I do understand that you don't have
10 to pay when you go there but I don't
11 consider it free to the voter because
12 people have to pay folks to bring them
13 there and other kinds of costs involved.
14 So I don't consider it free, but I do
15 consider that you don't have to pay the
16 State of Alabama for it.
17 Q And do you understand that the State of
18 Alabama does incur a cost to produce the
19 card?
20 MR. ROSS: Objection.
21 A I'm sure they do.
22 Q And can you understand why the State of
23 Alabama would not want to pay for the

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1 production of cards when the person
2 seeking the card already has a form of
3 photo ID that is acceptable for voting?
4 MR. ROSS: Objection to
5 form.
6 A I -- I can't understand with the shortage
7 of funds in Alabama why they would want
8 to have voter photo ID anyway and --
9 and -- when we don't have funds for all
10 kind of things, so I don't understand
11 why -- why they would spend money not
12 just on the card but on the whole
13 process. So I -- I don't understand.
14 That's what I don't understand.
15 Q I see how that's related. But do you
16 understand that the state would not want
17 to spend money to produce photo ID cards
18 for the purposes of voting when the voter
19 already has an acceptable form of ID?
20 MR. ROSS: Objection.
21 A My experience with the State of Alabama
22 is that they spend money on whatever they
23 want to and they let other needs go

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1 unmet, so I don't attribute that -- them
2 not spending money because you have other
3 forms of ID. I don't attribute that to
4 that at all. I just attribute that to
5 part of the whole scheme to suppress
6 African-American and other voters.
7 Q If the Alabama law does not make it a
8 crime to possess the free photo ID and to
9 also possess a driver's license, do you
10 think it's helpful to voters for
11 organizations to promote the falsehood
12 that it is, in fact, a crime?
13 MR. ROSS: Objection.
14 A I think the fact that that's not in there
15 reduces things to some degree but the
16 possibility of putting in some
17 information that somebody would accuse
18 you that's false is still there and even
19 if it doesn't say it is a crime they say
20 if you have two you might be charged with
21 some form of voter fraud. So I still
22 feel it's a dangerous situation and a lot
23 of people say, I'd rather have a driver's

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1 license. And the people who have -- this
2 doesn't affect very much about people
3 that already have a driver's license. It
4 always the new people, the young people
5 or some old people who haven't had -- or
6 somebody who get their card for the first
7 time. Those are the people that are
8 affected most of all.
9 Q You said earlier that you believed that
10 it was a crime for which intent need not
11 be proven to hold both free photo ID
12 law -- free photo ID card and another
13 photo ID acceptable under the law.
14 A Yes, I said that.
15 Q Do you have any basis as you sit here
16 today for believing that intent need not
17 be proven as an element of any such
18 prosecution?
19 MR. ROSS: Objection.
20 A Well, my experience has been in the
21 criminal law whenever they go after you,
22 the intent doesn't make a whole lot of
23 difference.

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1 Q You've defended persons charged with
2 crimes?
3 A Yes. I've been charged -- defended
4 people charged with a crime and -- and --
5 and I've -- and -- and the intent is
6 always inferred. If there's no
7 documented evidence of it, it's inferred.
8 So I don't -- I don't put a great deal of
9 weight on that, the fact that you've got
10 to prove intent.
11 Q Are you aware that another form of
12 identification acceptable under Alabama's
13 photo ID law would be a valid
14 identification card issued by a branch,
15 department, agency, or entity of the
16 State of Alabama or any other state or
17 the United States so long as that branch,
18 department, agency, or entity was
19 authorized to issue personal
20 identification and that it contained a
21 photograph?
22 MR. ROSS: Objection.
23 A Re- -- repeat that. That's a long one.

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1 Q Let me refer you to Defendant's Exhibit
2 Number 19 and I'd ask you to look on page
3 1 at subsection A2.
4 A Okay.
5 Q Since you're looking at the language, let
6 me change my question to this. Are you
7 aware that subsection A2 would include,
8 for instance, a photo ID issued by a
9 public university of any state in the
10 United States?
11 MR. ROSS: Objection.
12 Speculation. Form. Legal
13 conclusion.
14 A A2?
15 Q Yes.
16 A Yes, I've -- I've read A2 and the
17 question was?
18 Q Do you see under A2 it would be
19 acceptable to provide a photo ID issued,
20 for example, by the University of Texas
21 which would be an entity of the State of
22 Texas?
23 A I certainly didn't read that that way.

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1 Q Do you see that under A3 a valid United
2 States passport is an acceptable form of
3 ID?
4 A Yes.
5 Q Do you see that under A4 employee
6 identification card with a photo ID --
7 A Yes.
8 Q -- is acceptable if issued by the United
9 States government, the State of Alabama,
10 or county, municipality or other entity
11 of this state?
12 A Yes.
13 Q Are you aware that many Alabama State
14 employees are issued photo IDs?
15 A Yes.
16 Q Are you aware of the racial demographics
17 of the state employees?
18 A No.
19 Q Do you see that under paragraph A5 a
20 valid student or employee identification
21 card with photo issued by any public or
22 private college, university, or
23 postgraduate, technical, or professional

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1 school located in the state of Alabama is
2 an acceptable form of ID?
3 A Yes, I see that and -- and that conflicts
4 with the earlier thought about any
5 university, but that -- that's says
6 within the state of Alabama.
7 Q Right. This is accepting actually public
8 and private forms of -- entities of
9 higher education if they're in the state
10 of Alabama. If you go outside the state
11 of Alabama only government-issued IDs,
12 those from public universities are
13 accepted. Do you see that?
14 A I can understand that interpretation.
15 That's not the interpretation I
16 previously had. I don't think that's the
17 general interpretation out there among
18 the people.
19 Q Does Alabama have historically black
20 colleges and universities?
21 A Yes.
22 Q Do you know how many?
23 A No.

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1 Q It just so happens I have a list.
2 A Thank you.
3 Q If I can name -- I'd like to name them
4 and ask that you confirm if you agree if
5 you do that each one is a historically
6 black college or university.
7 A Yes.
8 Q Alabama A&M University?
9 A Yes.
10 Q Alabama State University?
11 A Yes.
12 Q Bishop State Community College?
13 A Yes.
14 Q Concordia College in Selma?
15 A Yes.
16 Q Gadsden State Community College?
17 A Yes.
18 Q Trenholm State?
19 A Yes, I guess so.
20 Q JF Drake State Technical College?
21 A Yes.
22 Q Lawson State Community College in
23 Birmingham?

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1 A Yes.
2 Q Miles College?
3 A Yes.
4 Q Oakwood University?
5 A Yes.
6 Q Selma University?
7 A Yes.
8 Q Shelton State Community College?
9 A I -- I've never considered Shelton State
10 Community College a historically black
11 college.
12 Q Okay.
13 A I don't think it is.
14 Q So no to Shelton State?
15 A Huh?
16 Q Shelton State you say no?
17 A I say no.
18 Q Okay. Stillman College?
19 A Yes.
20 Q Talladega College?
21 A Yes. I happened to graduate from
22 Talladega. I'm sorry. I didn't mean to
23 throw you off.

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1 Q Talladega College has been in the news
2 lately, hasn't it?
3 A Yes, it has. I know you're not going to
4 ask me about.
5 Q I think I am not going to.
6 A Okay.
7 Q Tuskegee University?
8 A Yes.
9 Q Okay. Do you see -- returning to
10 Defendant's Exhibit 19 that subsection A6
11 provides that a valid United States
12 military identification card so long as
13 it contains a photograph is an acceptable
14 form of ID in Alabama?
15 A Yes.
16 Q And do you see A7 a travel identification
17 card containing a photograph is
18 acceptable?
19 A Yes.
20 Q Do you know what the -- returning to A6
21 in the U.S. military, do you know what
22 the makeup of the Alabama National Guard
23 is?

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1 A No.
2 Q Would you agree that Alabama is a state
3 that has been proud to serve in the
4 United States military?
5 MR. ROSS: Objection.
6 Form.
7 A Yes. Let -- let -- let me -- if I may,
8 most college students would probably have
9 a driver's license anyway. All -- all of
10 these things the way they impact, they
11 adversely impact the poor folks and
12 not -- not everybody's in college. Not
13 most folks are in college. They -- they
14 impact others. Most of these -- a United
15 States passport, very few folks have
16 them. People who have them are people
17 who intend to travel out of the country
18 or have traveled out of the country. The
19 various college ones, that's a -- when
20 you look at everyone who has to go what
21 you have there is that they -- they
22 are -- they're a special class. Many of
23 them would have had a driver's license

<p style="text-align: right;">Page 261</p> <p>1 anyway. Most of these are for folks who</p> <p>2 would have already had a driver's</p> <p>3 license.</p> <p>4 It's the other people that having</p> <p>5 that great impact that I worry about and</p> <p>6 they're not in college and they're not</p> <p>7 employees of the government, any branch</p> <p>8 of the government.</p> <p>9 Q People do go to college on scholarships</p> <p>10 and with grants and loans?</p> <p>11 A Yes.</p> <p>12 Q And --</p> <p>13 A But -- but nearly every person I know who</p> <p>14 has gone to college, nearly all of them</p> <p>15 have some kind of a driver's license.</p> <p>16 Q How did you get to go to college? You</p> <p>17 said you grew up in a poor family but you</p> <p>18 went to Talladega College and you went to</p> <p>19 Harvard Law School?</p> <p>20 A What I did, when I graduated from college</p> <p>21 I was out three years because I couldn't</p> <p>22 go and I worked at a saw mill a year. I</p> <p>23 worked as a janitor. I worked as an</p>	<p style="text-align: right;">Page 263</p> <p>1 semester here. She said, well, I'll see</p> <p>2 you back in the fall. And she helped me</p> <p>3 to win the Catherine Wardle award that</p> <p>4 gave me full tuition, room and board as</p> <p>5 the student who contributed most to</p> <p>6 Talladega the previous year. And my</p> <p>7 third year I spent at Boston University</p> <p>8 on a scholarship provided by the Old</p> <p>9 South Church that she helped me also to</p> <p>10 get.</p> <p>11 I went to Harvard Law School on the</p> <p>12 Felix Frankfurter scholarship, which was</p> <p>13 a full scholarship and it was supposed to</p> <p>14 be for poor young men who show great</p> <p>15 promise. I fulfilled the poor young men.</p> <p>16 I don't know about the rest of it. But I</p> <p>17 had a lot of help along the way. I</p> <p>18 remember -- I'm talking too much but I</p> <p>19 remember when I applied to Harvard and</p> <p>20 wouldn't apply to anybody else and</p> <p>21 Ms. Montgomery tried to get me to apply</p> <p>22 to other places and I didn't. And</p> <p>23 eventually Ms. -- I got a -- a full</p>
<p style="text-align: right;">Page 262</p> <p>1 elevator operator. I worked as a stock</p> <p>2 boy, then a stock clerk, then a shipping</p> <p>3 clerk. I did all of that to try to go to</p> <p>4 college and I was a little foolish</p> <p>5 because when I got -- I had saved every</p> <p>6 penny I could when I -- when I -- I</p> <p>7 applied to Talladega College. They wrote</p> <p>8 me and told me that they think I would</p> <p>9 have qualified for -- for student aid and</p> <p>10 I wrote back like a fool and told them</p> <p>11 that I had saved my money and I didn't</p> <p>12 need any aid.</p> <p>13 My money lasted until December and</p> <p>14 so I had to find a way to -- to make it</p> <p>15 on through. And my second year I</p> <p>16 couldn't go back and a white lady at</p> <p>17 Talladega, Ms. -- Ms. Margaret -- I can't</p> <p>18 think of her last name. We all called</p> <p>19 her Peg behind her back, but she asked</p> <p>20 me -- she said, Sanders, I'm going to see</p> <p>21 you. I'll see you back in the fall.</p> <p>22 I said I don't think so. It took me</p> <p>23 three years to save enough to go one</p>	<p style="text-align: right;">Page 264</p> <p>1 scholarship from Notre Dame University</p> <p>2 and I hadn't applied and I didn't</p> <p>3 understand how I could get a full</p> <p>4 scholarship offer and not apply.</p> <p>5 Somebody told me that -- that she</p> <p>6 had tried to help me with Notre Dame and</p> <p>7 just to make sure I had an alternative.</p> <p>8 I think it also has something to do with</p> <p>9 that I made almost -- in the nearly</p> <p>10 90 percent to upper 80 percent on the</p> <p>11 LSAT. So all of these things helped me</p> <p>12 and -- and I don't feel like if I'm an</p> <p>13 exception that others could do the same</p> <p>14 thing because I had a lot of help from a</p> <p>15 lot of different directions.</p> <p>16 When you come from a family of 13</p> <p>17 children and nobody ever went to college</p> <p>18 before, it takes a lot of folks helping</p> <p>19 you and that's -- that's why I'm so</p> <p>20 concerned about people who didn't get the</p> <p>21 breaks that I got.</p> <p>22 Q Thank you, Senator.</p> <p>23 I'd like to ask you to look back to</p>

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1 Defendant's Exhibit 7, which is one of
2 your Senate Sketches. On page 2 of
3 Exhibit 7 you say that: "Several studies
4 have indicated that voter photo ID
5 prevents some 400,000 Alabamians from
6 voting in elections."
7 A Oh, defendant's exhibit, oh, I'm sorry.
8 Q Yes. We're looking for your Senate
9 Sketches, number 1425?
10 A Okay. I'm putting them in order. 14,
11 13, 12, 11. Okay. Number 7, yes.
12 Q Yes, sir.
13 A Okay.
14 Q Would you look at page 2, the first full
15 paragraph.
16 A "Let's take a closer look"?
17 Q Yes.
18 A Okay.
19 Q You see where you say that several
20 studies have indicated that voter photo
21 ID prevents some 400,000 Alabamians from
22 voting in elections?
23 A Yeah.

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1 Q My question to you is: Where did you get
2 that number?
3 A I -- I -- I believe -- let me see what
4 foundation was it? One foundation had
5 done that and I can't remember the name
6 of it and I can't remember any event,
7 but...
8 Q Do you remember what form of IDs those
9 studies considered?
10 A I'm sorry?
11 Q Do you remember what forms of ID those
12 studies considered? Do you know if it
13 limited to driver's license and all other
14 forms of IDs that Alabama accepts?
15 A I don't remember the details of it. I
16 just remember the numbers.
17 Q Are you aware of the results of the
18 plaintiff's no match list in this case?
19 A I saw something in one of these documents
20 today.
21 Q We talked earlier -- you talked with
22 Mr. Ross about a cross check that the
23 Secretary of State had run?

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1 A Yes.
2 Q I want you to put that out of your mind.
3 A Okay.
4 Q The plaintiffs in this case have
5 undertaken an attempt to match Alabama
6 registered voters to acceptable forms of
7 photo ID. Are you aware of the results
8 of those attempts to date?
9 A No.
10 Q Would you even know they were doing it?
11 A It seems to me that I may have heard some
12 talk about it.
13 Q Do you remember anything else that was
14 said about it?
15 A Not -- not at the moment.
16 Q I'd like to talk for a moment about the
17 positively identified provision, which I
18 believe you also spoke with Mr. Ross
19 about.
20 A Which one?
21 Q The positively identified provision of
22 the photo ID law. Do you recall that
23 that's the provision that allows a person

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1 to vote without photo ID --
2 A Yes.
3 Q -- if two poll workers can identify that
4 person?
5 A Yes, I recall.
6 Q I believe you testified earlier that in
7 some places in Alabama folks know each
8 other; is that correct?
9 A Yeah.
10 Q When you go to the polls, people know
11 you?
12 A Yeah.
13 Q If you'd look at Plaintiff's Exhibit
14 Number 1 and, actually, I think this is
15 the one you couldn't find before so I'll
16 give you mine again.
17 A Okay.
18 MS. MESSICK: Actually,
19 does somebody else have a
20 plaintiff's?
21 MR. ROSS: I've written on
22 mine too so if you're worried
23 about writing.

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1 Q Well, okay. I will share mine with you.
2 A Okay. Oh, I just --
3 Q You found it?
4 A Yeah.
5 Q Okay. If you'll look at the bottom of
6 page 1 and the top of page 2. Do you see
7 that former state Senator E.B. McClain --
8 A Yes.
9 Q -- is quoted as saying that most of the
10 voting boxes are manned by people that
11 live in the precinct and they know the
12 people voting?
13 A Yes, I see that.
14 Q Okay. And I believe you said something
15 similar earlier, that in some areas in
16 Alabama -- in some areas of Alabama
17 people do know each other?
18 A Well, that's true. But I think what I
19 said was that was still a problem because
20 many of them were manned by whites who
21 were not particularly prone to -- to do
22 about blacks.
23 Q What evidence do you have?

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1 A And I think I told you -- I told you
2 about the instance I couldn't -- I
3 couldn't -- personally couldn't vote in
4 spite of being an elected official for
5 30 -- nearly 30 years.
6 Q Yeah. And I didn't understand that. I
7 want to talk about that some more. The
8 positively identify provision exists to
9 help persons who don't have a photo ID
10 with them.
11 A That's right.
12 Q I understood that you had a photo --
13 well, I don't believe you said anything
14 about a photo ID.
15 A I had a photo ID.
16 Q The problems at the polls that day were
17 for some reason you were not on the poll
18 list?
19 A That's right.
20 Q They didn't have you listed as a voter?
21 A That's right.
22 Q It wasn't a problem with that photo ID?
23 A Right.

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1 Q Also, that positively identify provision,
2 that provision was in the 2003 voter ID
3 law, wasn't it?
4 A I don't recall that.
5 Q I'd like to talk with you about the
6 mobile units.
7 A Okay.
8 Q I'd like you to refer, please, to
9 Plaintiff's Exhibit Number 5. This is
10 the e-mail chain between Deule Ross and
11 Jean Brown in which you --
12 A Plaintiff's Exhibit Number 5?
13 Q Yes.
14 A Okay. I found it.
15 Q Okay. You talked with Ms. --
16 A I'm about to get organized.
17 Q I'm sorry. We've loaded you up with
18 paper today.
19 You see beginning on page 2 the list
20 of locations that Mr. Ross is asking that
21 the mobile unit be sent on behalf of the
22 various entities he's speaking for in
23 this e-mail dated October 1, 2014?

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1 A Yes.
2 Q I'd like you to look at that list,
3 please, and tell me if any of those
4 locations are in Senate district 23?
5 A No.
6 Q Did Secretary of State seek your input
7 where to put the unit within Senate
8 district 23?
9 A I don't recall them seeking any input
10 from me on where to send them in district
11 23. I remember several times I was
12 called the day before to say that they
13 would be somewhere in 20 -- Senate
14 district 23.
15 Q On those occasions did you go to the
16 locations where the mobile unit was?
17 A No. Because when you call me the day
18 before, every day is already full. If
19 it's -- if you really want me to come,
20 you've got to call me before the day
21 before. There was no way to go to those
22 places being called the day before.
23 Q This is an issue that you --

<p style="text-align: right;">Page 273</p> <p>1 A And I -- I -- I asked them on one 2 occasion, why can't you just send out a 3 text -- I mean not a text -- an e-mail to 4 me earlier so I can then try to let folks 5 know. Each time as I recall it was the 6 day before. 7 Q Are you aware that the Secretary of 8 State's Office routinely issues press 9 releases about the locations that the 10 mobile unit will be visiting? 11 A I assume they do. 12 Q Are you on that mailing list? 13 A No. I don't get -- I don't get press 14 releases from them. 15 Q Would you like to? 16 A Not really. And I'll tell you why. I 17 considered the whole thing -- it's a 18 scheme. It really doesn't accomplish 19 very much. 20 Q I'd like to show you Defendant's Exhibit 21 Number 20. 22 (Defendant's Exhibit 20 23 was marked for</p>	<p style="text-align: right;">Page 275</p> <p>1 fluent. I have a -- I have a Facebook 2 that I've never seen. Somebody just 3 keeps it for me. 4 Q Okay. I'd like to turn now to what I'm 5 going to refer to for ease as the office 6 closures. 7 A Okay. 8 Q But that is not meant to be an admission 9 in anyway. 10 A I promise you I won't treat it as one. 11 Q It's not you I'm worried about, but thank 12 you. 13 What do you understand to be the 14 responsibilities of the Alabama Law 15 Enforcement Agency? 16 A Well, to -- to prevent crimes, to 17 prosecute crimes, to prevent violations 18 of traffic and other ordinances. 19 Q When you refer to traffic, are you 20 talking about the fact that the Alabama 21 State troopers are part of ALEA? 22 A Yeah, yeah. And -- 23 Q Are you --</p>
<p style="text-align: right;">Page 274</p> <p>1 identification.) 2 Q This is an e-mail that was sent to you by 3 Clay Helms in the Alabama Secretary of 4 State's Office. I'd like to give you an 5 opportunity to read it and then I'm going 6 to ask you if you've ever seen it. 7 A No. And, again, this goes to that Hank 8 Sanders@AlabamaSenate, which I don't get. 9 I haven't seen this. 10 Q Is that e-mail address assigned to you by 11 the Alabama Senate? 12 A It -- it may very well be, but I've never 13 received a single e-mail from there. 14 Q Well, you don't check that address; 15 right? 16 A I don't even have it on my phone. 17 Q Okay. 18 A All of my e-mail comes to my phone. It's 19 not even on my phone. 20 Q Does your legislative website provide an 21 e-mail address for you? 22 A I don't know. I've never seen my -- my 23 website. I'm -- I'm not -- not that</p>	<p style="text-align: right;">Page 276</p> <p>1 A -- generally to protect the citizens of 2 Alabama. 3 Q You talked earlier about the increase in 4 the driver's license fee. What is your 5 understanding of the reason that the 6 Alabama Law Enforcement Agency increased 7 the driver's license fee? 8 A To -- to help the agency. 9 Q Financially? 10 A Financially, yeah. 11 Q Would you agree that at the time that 12 that was done ALEA was one of the many 13 state agencies that was suffering from 14 funding issues? 15 A I believe that that would be a fair 16 statement that they were suffering from 17 funding issues and I was -- I was -- I 18 was one of those who interacted to some 19 about that. 20 Q Did you -- 21 A And that's before that provision was put 22 in the budget that they were not to close 23 any offices because the legislature also</p>

<p style="text-align: right;">Page 277</p> <p>1 makes some decisions about funding as 2 well as agencies. 3 Q Well, isn't it that the legislature 4 actually determines what the funding will 5 be -- 6 A Yes. 7 Q -- and the agencies do their best to 8 fulfill their responsibility within the 9 funds provided? 10 A Yes. 11 Q Did you fight to increase ALEA's budget? 12 A I don't remember fighting to increase 13 ALEA's budget, but I've generally been 14 supported of law enforcement budgets. 15 Q Did you support Governor Riley's 16 amendment 1? 17 A Yes. I -- I was a very aggressive 18 supporter. I cut ads. I wrote articles. 19 I was very aggressive in supporting that. 20 I probably was maybe the most aggressive 21 person in the state of Alabama in support 22 of it. 23 Q Let's go ahead and take a break here for</p>	<p style="text-align: right;">Page 279</p> <p>1 funding to support its mandate -- 2 A No. 3 Q -- to -- thank you. 4 I'm going to show you now 5 Defendant's Exhibit 22. 6 (Defendant's Exhibit 22 7 was marked for 8 identification.) 9 Q This is Senate Bill 23 for the upcoming 10 session. Is this legislation that you 11 have introduced? 12 A Yes. 13 Q Does this bill also deal with the number 14 of days that the Alabama Law Enforcement 15 Agency shall be operational in each 16 county? 17 A Yes. 18 Q Does this bill contain any funding to 19 support its mandate? 20 A No. 21 Q When you developed Senate Bill 23, which 22 the legislature will have before it in 23 the next session, did you take into</p>
<p style="text-align: right;">Page 278</p> <p>1 a few minutes. 2 A Uh-huh, sure. 3 Q Thank you. 4 VIDEOGRAPHER: This 5 concludes tape five. Going off 6 the record at 5:40. 7 (At which time, a break 8 was held.) 9 VIDEOGRAPHER: This begins 10 disk six. Going back on the 11 record at 6:04. 12 BY MS. MESSICK: 13 Q Senator Sanders, I'm going to hand you 14 Defendant's Exhibit Number 21. 15 (Defendant's Exhibit 21 16 was marked for 17 identification.) 18 Q This is a copy of Senate Bill 72 from 19 last year. Would you look at that and 20 tell me if that's legislation that you 21 introduced? 22 A Yes. I -- I introduced this legislation. 23 Q Does that legislation provide for any</p>	<p style="text-align: right;">Page 280</p> <p>1 account the recent settlement between the 2 Alabama Law Enforcement Agency and the 3 United States Department of 4 Transportation in terms of the change in 5 hours that are a result of that 6 agreement? 7 A I was aware of them but I felt like every 8 county ought to have at least one day a 9 week. So regardless of what they may 10 have agreed to. 11 Q Can the Alabama Law Enforcement Agency 12 unilaterally sign an agreement with the 13 United States government requiring that 14 the Alabama legislature provide the 15 Alabama Law Enforcement Agency additional 16 funding? 17 A I -- I don't know. I guess they can sign 18 such an agreement. The question is, is 19 what impact it will have on the 20 legislature? 21 Q You indicated earlier that you met with 22 representatives of the United States 23 Department of Transportation?</p>

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1 A Yes.

2 Q Can you please tell me the substance of

3 those conversations?

4 A If -- as best I recall, they -- they

5 asked about how -- how -- how this came

6 about and perhaps why it came about. I

7 don't remember a lot of detail of what we

8 actually talked about but they asked the

9 questions and I tried to answer but it

10 was about why it came about, how it came

11 about, what was the impact of it, those

12 kinds of things.

13 Q Besides representatives of the United

14 States Department of Transportation and

15 yourself, who else was involved in

16 those -- that conversation or those

17 conversations?

18 A It seems like somebody sat in on a -- but

19 I can't pull up who it was. It seems

20 like one person was there. It seems like

21 they were already maybe in my office at

22 the time when they came by and I told

23 them, stay; you don't have to leave. But

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1 I don't recall who that might have been.

2 Q Was there just one conversation between

3 you and the United States Department of

4 Transportation?

5 A I remember one clearly. Seemed to be --

6 I just remember meeting with them one

7 time. There may have been an attempt to

8 follow up but not make it.

9 Q Are you aware of the substance of

10 other -- of conversations that other

11 people had with the United States

12 Department of Transportation regarding

13 the ALEA office closures?

14 A No.

15 MR. ROSS: Objection.

16 Form.

17 Q Have you reviewed the Second Amended

18 Complaint that's been filed in this case?

19 A No.

20 Q Are you aware that the plaintiffs have

21 alleged that the photo ID law was

22 conceived as a purposeful device to

23 further racial discrimination and that's

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1 a paraphrases because there's some

2 ellipses in the quote?

3 A I haven't looked at that in -- in the

4 complaint.

5 Q Do you agree with the position that the

6 photo ID law was conceived to further

7 racial discrimination?

8 A Yes.

9 Q Do you understand a reference to the

10 conception of a law to refer to the

11 passage of the law by the legislature?

12 A I don't understand the question.

13 Q When you agreed with my -- when you

14 agreed with the plaintiff's statement

15 that the photo ID law was conceived to

16 discriminate, who do you understand to

17 be -- who do you understand to have

18 conceived the law?

19 A Essentially white Republicans, some white

20 Republicans conceived it and they

21 continued to follow up on it over the

22 years.

23 Q I'm going to provide you with Defendant's

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1 Exhibit Number 23.

2 (Defendant's Exhibit 23

3 was marked for

4 identification.)

5 Q I'll represent to you that using

6 information available on the Alabama

7 legislature's website, this is my attempt

8 to list the names of all of the members

9 of the 2011 Alabama Senate and the 2011

10 Alabama House?

11 MR. ROSS: Objection.

12 Plaintiff's -- this document is

13 just a list of names. We have

14 no idea where it came from.

15 Ms. Messick is representing

16 that she made it. We don't

17 know if it's accurate. This

18 document was made by counsel

19 and we just have no idea

20 whether it's accurate, what

21 exactly it's representing to

22 be.

23 Q Senator Sanders, do you see anybody

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1 listed on the first page of Exhibit 23
2 who you do not recognize to have served
3 in the Alabama legislature at some time?
4 A No, I do not see any names that -- that I
5 don't recognize as having served in the
6 Alabama State Senate.
7 Q Senator, I'm going to show you
8 Defendant's Exhibit Number 24, which is
9 the roll for the Senate vote number 1063
10 on House Bill 19 of the regular session,
11 2011.
12 (Defendant's Exhibit 24
13 was marked for
14 identification.)
15 Q Was House Bill 19 in session 2011 the
16 photo ID law?
17 A I don't recognize it just by the number.
18 I don't keep up with the numbers.
19 Q That's fine. Will you please look at
20 Defendant's Exhibit Number 24 and tell me
21 which members of the Alabama Senate in
22 2011 intentionally -- which members of
23 the Alabama Senate passed or supported

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1 the photo ID law with the intention of
2 racially discriminating?
3 MR. ROSS: Objection.
4 Form.
5 A Well, first, I -- I can't speak to each
6 of these persons who voted for it. I
7 viewed it as a collective scheme for
8 racial discrimination. And earlier you
9 asked me who conceived it and as I recall
10 an organization called ALEC, A-L-E-C,
11 conceived these voter ID laws and spread
12 them across the country, as I -- as I
13 recall. And they were submitted not just
14 to Alabama but to a lot of other places.
15 And I can't address the intention of any
16 one legislator.
17 Q Does that answer for the House as well?
18 If I were to provide you a list of House
19 members, would you be able to tell me who
20 you believe supported or voted for the
21 photo ID law in order to intentionally
22 discriminate against blacks?
23 A I can't address the individual House

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1 members or the individual Senate members.
2 Q When you spoke with Mr. Ross earlier you
3 talked about times when --
4 A Talked about what?
5 Q You talked about times when you believed
6 that the Republicans invoked cloture in
7 order to prevent debate by Democrats.
8 And you said it almost never happened
9 when the Democrats were in control. Did
10 the Democrats ever invoke cloture to
11 prevent debate in the time they
12 controlled the Alabama legislature in the
13 time that you served there?
14 A Well, I -- I remember -- I remember one
15 time in specific. It was the end of the
16 session. We had a budget and the only
17 way we could pass the budget was to
18 invoke cloture but time was running out
19 in the legislative session. I remember
20 that one time clearly.
21 Q Do you remember a jug incident that made
22 Lieutenant Governor Steve Windham?
23 A Infamous or famous?

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1 Q Yes.
2 A I remember.
3 Q Was that the Democrats trying to strip
4 him of power?
5 MR. ROSS: Object.
6 Speculation. Form.
7 A The Democrats were not trying to strip
8 him of power. In organizing in a Senate
9 you determine who has power. At that
10 point nobody had power. Previous -- just
11 because previous lieutenant governors had
12 power didn't mean you had it. At the
13 moment you organize, nobody has power
14 until you organize. So we weren't
15 stripping him, we were saying that the
16 power would be distributed differently.
17 Q Okay. You talked about the immigration
18 law earlier. Do you remember that one of
19 the lawsuits against the immigration law
20 was brought by church leaders?
21 A Vaguely.
22 Q I believe you testified that the church
23 leaders were concerned that they would be

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1 prosecuted for helping people?

2 A Yes. Some church leaders was concerned

3 that they could be prosecuted.

4 Q Are you aware that the federal court said

5 that those plaintiffs lack standing to

6 bring those claims because the law did

7 not operate the way they believed it did?

8 A No, I'm not familiar with that.

9 Q You talked earlier about a deal in 2003

10 to pass a bill to address felon

11 disenfranchisement simultaneous with the

12 voter ID bill?

13 A Yes.

14 Q What was the substance of the felon

15 voting bill?

16 A I don't remember the details of it. I

17 just remember that it would reduce the

18 number of people that would be

19 disenfranchised because of prior felon

20 convictions.

21 Q Are you aware there's a constitution

22 amendment in this state that sets the

23 terms of whom is disenfranchised?

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1 A I am aware that there is a constitutional

2 amendment.

3 Q Okay.

4 A But it is applied much different than

5 what's in the constitution, the

6 amendment. I haven't looked at the

7 constitution amendment for some time but

8 when it called moral turpitude I think at

9 that time it meant something -- treason

10 and two or three other things. Since

11 that time, it has been expanded more

12 broadly -- much more broadly.

13 Q I'm going to object to the form of the

14 answer.

15 What, if anything, did you ask

16 former Secretary of State Jim Bennett to

17 do to ease what you perceived to be a

18 burden of the photo ID law and which he

19 declined to do?

20 A I don't remember what I may have asked

21 individually or what we collectively

22 asked, but I remember that we were very

23 concerned about the impact of -- of -- of

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1 photo ID. I think that there may have

2 been some questions about the regulations

3 and -- and they had already been

4 struggling with those. I think that

5 there had been some requests about a way

6 to ensure that photo ID was more

7 accessible. I don't really remember all

8 the details from that meeting. That was

9 the general tone of it, I think.

10 Q Have you asked current Secretary of State

11 John Merrill to do anything to ease what

12 you perceive to be the burden of the

13 photo ID law?

14 A I -- I don't think I've asked him

15 anything about the voter ID.

16 Q Okay. You spoke with Mr. Ross earlier

17 about preclearance under section 5 of the

18 Voting Rights Act?

19 A Yes.

20 Q Did pre- -- did section 5 require the

21 state of Alabama or local officials to

22 get preclearance anytime a polling place

23 was moved?

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1 A Yes.

2 Q Was that true even if the polling place

3 was demolished by a tornado?

4 A I don't know about -- I -- what I know

5 and I represented county commission that

6 whenever there was a -- they changed

7 polling places, it was precleared. Now,

8 there was some emergency provisions

9 where -- where if some emergency come up,

10 we'd notify them and tell them that it's

11 too close to the election to do anything;

12 you've got an emergency. And what we --

13 they intended to have it precleared but

14 they got an emergency. So I would

15 imagine that with tornadoes, it may have

16 done it because I vaguely remember in the

17 back of my mind that things have happened

18 and they couldn't vote at a polling

19 place. So they notified them and then

20 submitted a preclearing, but it was too

21 close to the election to go through the

22 process.

23 Q Have you actually made preclearance

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1 submissions then?

2 A Yes.

3 Q What kinds of preclearance submissions

4 did you make other than those involving

5 moving polling places?

6 A I remember one on a piece of local

7 legislation I submitted. The attorney

8 general didn't do it. I don't remember

9 what county it was for, but I remember

10 the attorney general told me that I

11 needed to submit it and I submitted it.

12 It seems to me that I've submitted some

13 dealing with redistricting of county

14 boards of education, county commission.

15 Q Are all preclearance submissions the same

16 in terms of the amount of the time and

17 effort they take to complete?

18 A No. They vary widely.

19 Q Did section 5 require preclearance of

20 changes that were favorable to blacks?

21 A Yes.

22 Q All changes had to be submitted?

23 A All changes whether they were favorable

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1 or not favorable and the reason for that

2 was that you didn't know whether they

3 were favorable or not favorable and

4 therefore you submitted them so they

5 could look at it and determine. Some

6 things on the surface may look like it's

7 favorable but in reality, it's

8 unfavorable.

9 Q Are you familiar with every preclearance

10 submission that the State of Alabama has

11 ever made?

12 A No.

13 Q I believe you testified earlier that it's

14 your understanding that preclearance must

15 be secured before a law can be enact --

16 enforced; is that correct?

17 A Before it can be implemented.

18 Q Okay. So it's not that there's some sort

19 of requirement immediately upon the

20 passage of the law that it be submitted.

21 It must be submitted and preclearance

22 achieved before a law can be implemented;

23 is that correct?

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1 A We -- yes. The law -- as I understand

2 it, you can pass a law but you can't

3 implement it if it's one that should be

4 submitted to preclearance -- precleared.

5 Q You testified earlier that you believe

6 Alabama's photo ID law would not have

7 been precleared?

8 A Yes.

9 Q Is it your understanding that if

10 preclearance had been denied -- let me

11 start over.

12 If Alabama had submitted the photo

13 ID law for preclearance and if that

14 preclearance had been denied, do you

15 believe that Alabama would be prevented

16 from implementing the photo ID law after

17 the Shelby County V. Holder decision?

18 A Well, first, I believe the law provides

19 if the Justice Department turned it down

20 I believe they can submit it to a

21 three-judge panel in Washington, DC. So

22 that's a route they could have gone.

23 Q Absolutely. There are various ways to

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1 solve preclearance. But for purposes of

2 my question, let's assume preclearance is

3 sought and denied and the United States

4 Supreme Court thereafter issues its

5 decision in Shelby County V Holder.

6 Would the denial of preclearance have any

7 effect at that point?

8 MR. ROSS: Objection.

9 Calls for a legal --

10 A I don't know the answer to that.

11 MR. ROSS: -- legal

12 conclusion.

13 Q I'd like to ask you to look at

14 Defendant's Exhibit Number 7, please.

15 A Okay. Now I'm organized.

16 Q Okay. On the first page in the third

17 paragraph, you allege that the Alabama

18 attorney general deliberately waited to

19 seek preclearance and that as a result

20 the primary was the first time the photo

21 ID was implemented and there were various

22 problems in how the law was applied. Are

23 you saying simply that there were

<p style="text-align: right;">Page 297</p> <p>1 problems with the first implementation of</p> <p>2 the law or are you saying that</p> <p>3 preclearance somehow created problems</p> <p>4 with the implementation?</p> <p>5 A Well, preclearance didn't create any</p> <p>6 problems with implementation because it</p> <p>7 wasn't precleared.</p> <p>8 Q Okay. Thank you.</p> <p>9 We talked earlier about Senator</p> <p>10 Vivian Figures. For the record, could</p> <p>11 you tell me what race she is?</p> <p>12 A African-American.</p> <p>13 MS. MESSICK: Thank you.</p> <p>14 I'm going to turn the</p> <p>15 questioning over to counsel for</p> <p>16 the defendant -- defendant</p> <p>17 governor.</p> <p>18</p> <p>19 EXAMINATION</p> <p>20 BY MR. NEIMAN:</p> <p>21 Q Okay, Senator Sanders. I know it's late.</p> <p>22 We're all weary. I'll try and cut it</p> <p>23 short.</p>	<p style="text-align: right;">Page 299</p> <p>1 a privilege that the legislator can</p> <p>2 invoke or waive and I waived it.</p> <p>3 Q Earlier today we looked at a document in</p> <p>4 which the NAACP LDF made some requests</p> <p>5 for documents from the State of Alabama.</p> <p>6 Do you remember that document?</p> <p>7 A Yes.</p> <p>8 Q Okay. That document purported to make</p> <p>9 that request on your behalf; correct?</p> <p>10 A I believe on my half -- behalf and some</p> <p>11 others, if I remember correctly.</p> <p>12 Q Did you have an attorney-client</p> <p>13 relationship with the legal defense fund</p> <p>14 for the purposes of that document</p> <p>15 request?</p> <p>16 A No.</p> <p>17 Q Okay. What did you do to prepare for</p> <p>18 today's deposition?</p> <p>19 A Nothing really. I -- I didn't know what</p> <p>20 was going on and so I contacted Deule</p> <p>21 Ross and he said he couldn't talk to me,</p> <p>22 so I couldn't prepare.</p> <p>23 Q Okay. Before you received the notice of</p>
<p style="text-align: right;">Page 298</p> <p>1 A I'm sure I'm not the only one that would</p> <p>2 appreciate that.</p> <p>3 Q Let me see if I can memorialize a</p> <p>4 conversation we had with all counsel</p> <p>5 present earlier today. You are a lawyer;</p> <p>6 correct?</p> <p>7 A Yes.</p> <p>8 Q That said, you're not being represented</p> <p>9 by anybody else today; correct?</p> <p>10 A That's correct.</p> <p>11 Q You are aware of a doctrine called the</p> <p>12 legislative privilege; correct?</p> <p>13 A Yes.</p> <p>14 Q When we discussed that earlier --</p> <p>15 A Legislative privilege?</p> <p>16 Q Under which a legislator might be able to</p> <p>17 object to certain questions about his or</p> <p>18 her activities?</p> <p>19 A Yes.</p> <p>20 Q When we discussed that doctrine earlier,</p> <p>21 you suggested that it was your own to</p> <p>22 either raise or waive; right?</p> <p>23 A That's correct. My understanding is it's</p>	<p style="text-align: right;">Page 300</p> <p>1 deposition, had you had any contact with</p> <p>2 any of the plaintiffs or the plaintiffs'</p> <p>3 counsel about this litigation?</p> <p>4 A I don't know. I -- I don't think I had</p> <p>5 any -- I don't remember having any</p> <p>6 individual conversations but there may</p> <p>7 have been groups that we were in where</p> <p>8 there was some conversation.</p> <p>9 Q Are you -- are you a member of the either</p> <p>10 of the organizational plaintiffs in this</p> <p>11 case? And those two organizations I'll</p> <p>12 represent to you are the Greater</p> <p>13 Birmingham Ministries?</p> <p>14 A No.</p> <p>15 Q What about the Alabama Chapter of the</p> <p>16 NAACP?</p> <p>17 A Not -- no. No. I have been a member of</p> <p>18 the Alabama Chapter of the NAACP some</p> <p>19 years ago, but I'm not a member of either</p> <p>20 of those.</p> <p>21 Q Okay. Have the plaintiffs in this case</p> <p>22 asked you to provide them with the names</p> <p>23 of any persons who have been unable to</p>

<p style="text-align: right;">Page 301</p> <p>1 vote because of the voter ID law?</p> <p>2 A I don't -- I don't recall any specific</p> <p>3 request to me, but there certainly have</p> <p>4 been some discussions about it. I --</p> <p>5 I -- I don't have any specific request.</p> <p>6 Q Do you know the names of anyone who has</p> <p>7 been unable to vote because of the photo</p> <p>8 voter ID law in Alabama?</p> <p>9 A I -- I don't have any names I could</p> <p>10 provide you.</p> <p>11 Q I think you said earlier -- and I don't</p> <p>12 want to mischaracterize your testimony --</p> <p>13 that you've had discussions with people</p> <p>14 in the community about those persons'</p> <p>15 either inability or unwillingness to</p> <p>16 obtain an ID that would enable them to</p> <p>17 vote. Is that a fair --</p> <p>18 A Yeah.</p> <p>19 Q -- summary of what you said earlier?</p> <p>20 A I've been in -- been in meetings where</p> <p>21 there was discussions about it and where</p> <p>22 people have expressed their concerns</p> <p>23 about it.</p>	<p style="text-align: right;">Page 303</p> <p>1 ALEA office hours affected people in ways</p> <p>2 that did not involve the ballot?</p> <p>3 A Yes.</p> <p>4 Q Changes in office hours, for example,</p> <p>5 would have affected, perhaps, someone's</p> <p>6 ability to drive legally?</p> <p>7 A That -- that's correct.</p> <p>8 Q Why did you choose to use the slogan</p> <p>9 involving bottle and ballot but not</p> <p>10 mention transportation, for example?</p> <p>11 MR. ROSS: Objection.</p> <p>12 Form. Speculation.</p> <p>13 A We -- we thought that -- that -- that --</p> <p>14 that the state of Alabama saying that we</p> <p>15 don't want people to have drive to the</p> <p>16 next county to get a bottle but yet they</p> <p>17 were making them drive to the next county</p> <p>18 to get a driver's license and the best</p> <p>19 way to handle that -- I mean to highlight</p> <p>20 that was the B&B, "Give us the ballot,</p> <p>21 not just the bottle."</p> <p>22 So that -- that -- I think part of</p> <p>23 it was the alliteration but it kept the</p>
<p style="text-align: right;">Page 302</p> <p>1 Q Do you have any recollection of a</p> <p>2 specific date in which you had such a</p> <p>3 meeting?</p> <p>4 A No.</p> <p>5 Q All right. And do you have any</p> <p>6 recollection of a specific name of</p> <p>7 someone who you interacted with during</p> <p>8 one of those meetings?</p> <p>9 A No.</p> <p>10 Q We've talked a little bit about the</p> <p>11 changes to the ALEA offices in various</p> <p>12 counties in Alabama. You conducted a</p> <p>13 protest on the steps of the Montgomery</p> <p>14 capitol about this issue; correct?</p> <p>15 A Yes, I -- I participated in one.</p> <p>16 Q Earlier today I believe we discussed that</p> <p>17 protest and you mentioned the slogan that</p> <p>18 you used during the protest. I'm</p> <p>19 forgetting what the slogan was. Can you</p> <p>20 refresh my recollection?</p> <p>21 A Not just -- "Give us the ballot, not just</p> <p>22 the bottle."</p> <p>23 Q Is it fair to say that the changes in</p>	<p style="text-align: right;">Page 304</p> <p>1 spirit that we had of the feel of it</p> <p>2 adversely impacting voting.</p> <p>3 Q Earlier -- or earlier in the day we</p> <p>4 discussed various cases that you were</p> <p>5 either aware of or involved in where</p> <p>6 persons had been accused of voter fraud.</p> <p>7 Did you say during that testimony that</p> <p>8 you had at some point contacted</p> <p>9 authorities and asked them to investigate</p> <p>10 voter fraud by white persons?</p> <p>11 A No. I said we, and I was talking about</p> <p>12 working with Albert Turner and Robert</p> <p>13 Turner and some others, yes.</p> <p>14 Q Okay. Which incidents were you referring</p> <p>15 to?</p> <p>16 A Oh, you may be talking about a different</p> <p>17 thing. You're not talking about back</p> <p>18 with the Marion Three.</p> <p>19 Q I thought at some point today you had --</p> <p>20 A I mentioned down in Wilcox, the election</p> <p>21 in 2016 -- no -- 2000 -- yeah, 2016.</p> <p>22 Q And were there concerns during that</p> <p>23 election about fraud by white citizens of</p>

<p style="text-align: right;">Page 305</p> <p>1 Alabama?</p> <p>2 MR. ROSS: Objection to</p> <p>3 form. You haven't defined</p> <p>4 fraud.</p> <p>5 A There were concerns about fraud and about</p> <p>6 black citizens.</p> <p>7 Q Okay. So am I just misremembering when I</p> <p>8 say I thought I heard you testify that</p> <p>9 there were some concerns at some point</p> <p>10 about some sort of the voter fraud or</p> <p>11 irregularity conducted by white persons?</p> <p>12 A Yeah. That -- that was back in the late</p> <p>13 '70s or early -- early '80s that ended up</p> <p>14 going with the indictment of the Marion</p> <p>15 Three. We -- we -- there had been a lot</p> <p>16 of complaints.</p> <p>17 Whites used the absentee ballots</p> <p>18 during that period and blacks didn't.</p> <p>19 There had been complaints made to law</p> <p>20 enforcement about it. They didn't do it.</p> <p>21 Then Albert Turner and I believe Robert</p> <p>22 Turner went with him up to Washington,</p> <p>23 DC, and that -- that was a further</p>	<p style="text-align: right;">Page 307</p> <p>1 know we had worked out a deal where the</p> <p>2 two bills were going to work together and</p> <p>3 I don't recall exactly what my vote was.</p> <p>4 Q I -- I believe earlier today you</p> <p>5 testified that you understood different</p> <p>6 polling places to adopt different views</p> <p>7 of which convicted felons were authorized</p> <p>8 to vote?</p> <p>9 A Yes.</p> <p>10 Q Is that a fair characterization?</p> <p>11 A I think that's a fair statement. We had</p> <p>12 had complaints that one would include</p> <p>13 certain things as a felon with moral</p> <p>14 turpitude and others would excluded it.</p> <p>15 It was just all that interpretation</p> <p>16 there.</p> <p>17 Q Can you recall a specific incident in</p> <p>18 which that occurred?</p> <p>19 A No.</p> <p>20 Q There's been some testimony today about</p> <p>21 the racial composition of state</p> <p>22 parties -- or political parties in</p> <p>23 Alabama. Do you know -- well, scratch</p>
<p style="text-align: right;">Page 306</p> <p>1 complaint about it.</p> <p>2 And they said, well, nothing we can</p> <p>3 do about it, y'all just learn to use</p> <p>4 absentee ballots yourself. So when they</p> <p>5 came back and told us that, I said to</p> <p>6 them we have to find a way to do it</p> <p>7 legally. And so I held classes -- well,</p> <p>8 maybe not classes -- I held sessions</p> <p>9 where we went over the absentee law.</p> <p>10 Q Right.</p> <p>11 A So that they could do it legally.</p> <p>12 Q This is the same Robert Turner who still</p> <p>13 practices law in Marion?</p> <p>14 A Yes.</p> <p>15 Q Do you have a recollection about the</p> <p>16 specific incident that was involved in</p> <p>17 those complaints?</p> <p>18 A No, no. That's nearly 40 years ago.</p> <p>19 Q Okay. In 2003, a voter ID bill passed.</p> <p>20 There was testimony about that earlier</p> <p>21 today. What was your vote on that bill?</p> <p>22 A I don't remember. I was trying to</p> <p>23 remember that -- that earlier. I -- I</p>	<p style="text-align: right;">Page 308</p> <p>1 that.</p> <p>2 You have testified, for example,</p> <p>3 that the majority of the Democratic party</p> <p>4 is black?</p> <p>5 A Yes.</p> <p>6 Q When you refer to the Democratic party,</p> <p>7 are you referring to people who hold</p> <p>8 office?</p> <p>9 A No. I'm talking about people who vote</p> <p>10 Democratic.</p> <p>11 Q Are you referring to people who are not</p> <p>12 members of the party formally?</p> <p>13 A Well, in Alabama the only people who are</p> <p>14 formally members of the party are</p> <p>15 essentially elected officials. There may</p> <p>16 be people who work there but you don't</p> <p>17 register as a Democrat in Alabama. Your</p> <p>18 don't register as a Republican. So the</p> <p>19 only formal people are generally the</p> <p>20 candidates.</p> <p>21 Q Do you know what percentage of the voters</p> <p>22 in Alabama who voted for Senator Hillary</p> <p>23 Clinton for president were white?</p>

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1 A No. No. But I -- I forget the -- she
2 got 30-some percent as I -- as I recall
3 and there's no doubt in my mind that the
4 huge majority of those were
5 African-American.
6 Q Why is there no doubt in your mind about
7 that?
8 A Because there was not a lot of
9 African-Americans voting for President
10 Trump.
11 Q Have you seen polling data on that --
12 the --
13 A In Alabama? Not in Alabama. I haven't
14 seen any polling data on it. I've seen
15 it nationally and it was, like, 8 percent
16 and 88 percent for Clinton.
17 Q We've talked a bit about the voter
18 identification that is available at the
19 boards of registrars?
20 A Yes.
21 Q You have testified that you have had
22 conversations with people suggesting that
23 for various reasons they -- those persons

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1 do not want to get this identification
2 from the boards of registrars?
3 A Yes.
4 Q Do you have a specific recollection of
5 when you had a conversation in which
6 someone revealed that information to you?
7 A No, because those would have been at
8 community meetings. They were not
9 individuals that sought me out. When we
10 would be at community meetings, we'd be
11 discussing the voter ID law. It was
12 those kinds of situations.
13 Q Do you have the names of any persons who
14 revealed that information to you at those
15 meetings?
16 A No.
17 Q Do you recall --
18 A I can't recall any at this moment.
19 Q Do you recall whether you responded to
20 those persons when they expressed those
21 concerns to you?
22 A Well, I certainly responded in the
23 community when those concerns were --

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1 were expressed.
2 Q Do you recall what you said?
3 A I told them that I had concerns as well
4 and so -- so yeah.
5 Q Did you encourage them to get the
6 identification from the boards of
7 registrars?
8 A I encouraged them to get driver's
9 licenses or -- or get a nondriver's
10 license ID because they could use it for
11 more -- more things than just voting.
12 Q At some point during your testimony today
13 you mentioned that you have been involved
14 in efforts to get African-Americans to
15 obtain voter IDs; is that correct?
16 A I -- I don't know whether I've been --
17 I've -- I've been involved in activities
18 to get people to gets IDs so that they
19 could vote, not necessarily voter ID. If
20 they could get a driver's license, they
21 could get nondriver's license ID but to
22 get an ID so that they could vote.
23 Q What efforts are you referring to

Page 312

1 specifically?
2 A I -- I attend various community meetings
3 and other kinds of things. I -- I talk
4 about it. I've talked about it over the
5 radio and various kinds of other ways.
6 Q Earlier today did you testify that the
7 Shelby County decision has affected the
8 ability of incarcerated persons in
9 Alabama to vote?
10 A I don't remember -- I don't remember
11 testifying to that.
12 Q Did you testify that the Shelby County
13 decision has affected the ability of
14 convicted felons to vote?
15 A I don't remember testifying to that.
16 Q We had discussed some legislative
17 procedure today. The word cloture had
18 been used. You also discussed a
19 procedure whereby there was no debate
20 over particular bills. Is cloture the
21 same thing as a procedure whereby there
22 is no debate over bills?
23 A Well, cloture and a petition to cut off

Page 313

1 debate is the same. And we used to have
2 a -- a -- sort of a situation where we
3 wouldn't cut off debate for at least two
4 hours so people could have a chance to
5 debate. But a petition to cut off debate
6 and cloture are the same thing. But what
7 would happen is when they got in they
8 changed the rule where they could cut off
9 debate within 20 -- 20 minutes. But so
10 whoever introduced -- whoever was the
11 sponsor of the bill would -- the moment
12 the bill is called up, they'd come to the
13 podium and -- and take the -- the --
14 and -- and -- and take the mike and then
15 a petition would be filed by the rules
16 committee.

17 And so there was 20 minutes to be
18 able to talk on it but they wouldn't give
19 up the mike to Democrats or
20 African-Americans to be able to say a
21 word. So you didn't get a chance to --
22 to -- to even debate during those 20
23 minutes because they held the mike and

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1 they were doing the debating those 20
2 minutes. And after 20 minutes, you vote
3 on the petition to cut off debate.

4 Q Are you aware of what happened on the
5 floor of the House when the voter ID
6 law -- the photo voter ID law, was being
7 considered?

8 A No.

9 Q Are you aware of what happened on the
10 floor of the House when the immigration
11 law, HB 56, was being considered?

12 A No.

13 Q There was some discussion earlier today
14 about the redistricting and the opinions
15 by the United States Supreme Court as
16 well as the three-judge district court on
17 remands. Have you had an opportunity to
18 read the three-judge district court's
19 opinion on remand?

20 A No.

21 Q I have not either, not in full. But are
22 you aware of the majority's ruling with
23 respect to your district, Senate district

Page 315

1 23 --

2 A No.

3 Q -- on remand? Are you aware --

4 A I didn't think that Senate district 23
5 was one of the ones that they decided.
6 No -- no, I haven't read it so -- at all.

7 Q Are you aware that the court in that case
8 has discussed certain testimony that you
9 gave in 2011 here in Selma?

10 A No, I have -- no, I'm not. I had hoped
11 to testify at trial. I wasn't called, so
12 I'm not aware that they discussed
13 something that I may have said.

14 Q Do you remember a public hearing held on
15 redistricting in Selma on October 18th,
16 2011?

17 A I don't remember the exact date, but one
18 was held in Selma.

19 Q Is it your recollection that you spoke at
20 that hearing?

21 A I did attend and did speak.

22 Q Do you recall whether you said during
23 that time that the majority

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1 African-American the districts ought not
2 to be less than 52 percent
3 African-American?

4 A I believe I may have said something to
5 like that.

6 Q What was the basis of your statement to
7 that effect?

8 A Well, one of the things that I was
9 concerned about is that with the number
10 of African-Americans who have a
11 conviction, the number of
12 African-Americans who are underage, and
13 various other reasons why they may not
14 vote, a district that's got 50 percent
15 African-American, 50 percent white is a
16 predominantly white district when it
17 comes to voting. Those were the kind of
18 concerns that I have.

19 Q Have you ever run for the United States
20 Congress?

21 A Yes.

22 Q When did you run?

23 A '92. And out of 75,000 votes, I came up

<p style="text-align: right;">Page 317</p> <p>1 about 500 votes short.</p> <p>2 Q That was in the Democratic primary?</p> <p>3 A Yes.</p> <p>4 Q Who was your opponent?</p> <p>5 A Earl Hilliard.</p> <p>6 Q Do you know of any irregularities with</p> <p>7 respect to that election and the counting</p> <p>8 of votes or otherwise?</p> <p>9 MR. ROSS: Objection.</p> <p>10 Form.</p> <p>11 A Yeah. There was some problem down in</p> <p>12 Marengo County. Marengo County was held</p> <p>13 out un- -- until all the other votes was</p> <p>14 in. I had the same problem when I ran</p> <p>15 for the state senate one time. I</p> <p>16 actually filed a contest on that but</p> <p>17 didn't go all the way through on it.</p> <p>18 Q Which election did you file the contest</p> <p>19 on?</p> <p>20 A The United States Congress.</p> <p>21 Q Is that the only time you have run for</p> <p>22 federal office?</p> <p>23 A Yes.</p>	<p style="text-align: right;">Page 319</p> <p>1 places. But I -- it's a minimal of one</p> <p>2 day.</p> <p>3 Q Did the ALEA clotures affect Dallas</p> <p>4 County's ALEA office?</p> <p>5 A It would affect it because if people have</p> <p>6 to come from Perry County or Lowndes</p> <p>7 County or Wilcox County, it ends up</p> <p>8 affecting Dallas County.</p> <p>9 Q Did the hours in Dallas County change as</p> <p>10 a result of the closures?</p> <p>11 A I don't know. I don't know for sure, but</p> <p>12 I don't know of any change.</p> <p>13 Q Is it your position that the hours of</p> <p>14 ALEA offices in Perry County need to be</p> <p>15 the same as the hours in Dallas County?</p> <p>16 A No, that's not my position. My position</p> <p>17 is that Perry County needs to be at least</p> <p>18 one day a week. Dallas County probably</p> <p>19 needs to be every day of the week.</p> <p>20 Q Why do the hours in Dallas County need to</p> <p>21 be different than Perry County?</p> <p>22 A Because there's a lot more people in</p> <p>23 Dallas County. Dallas County is almost</p>
<p style="text-align: right;">Page 318</p> <p>1 Q Is that the only election --</p> <p>2 A Unless you consider running as a delegate</p> <p>3 for a candidate that's federal in some</p> <p>4 kind of way.</p> <p>5 Q Is that the only election you had ever</p> <p>6 lost, by the way?</p> <p>7 A No. I lost -- I ran in '82 and -- and it</p> <p>8 seems like out of 35,000 -- 36,000 votes,</p> <p>9 Marengo County held out until the end and</p> <p>10 hours later it came in and I was sure I</p> <p>11 had won and I ended up losing I think by</p> <p>12 400 votes. And then in '92 I thought I</p> <p>13 had won and Marengo County came in hours</p> <p>14 later and I had lost by 500 votes or so.</p> <p>15 Q Is it your position that having every</p> <p>16 ALEA office in the state open one day per</p> <p>17 week is sufficient to --</p> <p>18 A No. A minimal of one day for week. No.</p> <p>19 Having every office one day a week is not</p> <p>20 sufficient for various kinds of places.</p> <p>21 I don't think it's sufficient in Dallas</p> <p>22 County or Marengo County, certainly not</p> <p>23 in Birmingham and Montgomery and other</p>	<p style="text-align: right;">Page 320</p> <p>1 four times the size of Perry County.</p> <p>2 Q Are you aware of any data about the</p> <p>3 number of transactions that are conducted</p> <p>4 at various ALEA offices throughout the</p> <p>5 state?</p> <p>6 A No, I don't have that data.</p> <p>7 Q Earlier today I believe that you</p> <p>8 testified that in your view the ALEA</p> <p>9 offices could have been funded such that</p> <p>10 the closures would not have happened even</p> <p>11 under the budget that was passed by the</p> <p>12 legislature in 2014. Do I have that</p> <p>13 correct?</p> <p>14 A That's correct.</p> <p>15 Q Where do you believe the money could have</p> <p>16 come from to fund the offices?</p> <p>17 A Well, when it was initially closed, they</p> <p>18 said that they were going to save a</p> <p>19 hundred thousand dollars. Later they</p> <p>20 came back and made in the next -- months</p> <p>21 later making some huge amount. But I</p> <p>22 think it was so important that you have</p> <p>23 driver's license in each county that --</p>

<p style="text-align: right;">Page 321</p> <p>1 from the budget that they had they could</p> <p>2 have found ways to keep them open at</p> <p>3 least one day a week in every county.</p> <p>4 Q Do you recall any specific part of --</p> <p>5 scratch that.</p> <p>6 Do you recall a specific thing that</p> <p>7 you believe should not have been funded</p> <p>8 in order to fund the ALEA offices?</p> <p>9 A No. But it has been my experience with</p> <p>10 the Alabama government anything they</p> <p>11 really want to fund they find a way to</p> <p>12 fund it. You take a little from here and</p> <p>13 a little from there. They find a way to</p> <p>14 do it. That has been my experience for</p> <p>15 the 30-some years that I've been down</p> <p>16 there and the things they don't want to</p> <p>17 fund, they say it's because of the budget</p> <p>18 or because of finance or something to</p> <p>19 that way. I think it's a matter of what</p> <p>20 they want to do and don't want to do and</p> <p>21 I think they wanted to close those</p> <p>22 offices so funding was -- became an</p> <p>23 excuse, not a reason.</p>	<p style="text-align: right;">Page 323</p> <p>1 was my understanding the governor</p> <p>2 responded to it by removing it.</p> <p>3 Q You said someone in the economic</p> <p>4 development process gave you that</p> <p>5 information. Are you referring to a</p> <p>6 particular state agency?</p> <p>7 A No, I'm not referring to a particular</p> <p>8 state agency. Let me -- let me just say</p> <p>9 this. I -- there was a -- in the -- in</p> <p>10 the political process, people -- other</p> <p>11 senators and other people are always</p> <p>12 sharing information that they have</p> <p>13 obtained. And over the years, you learn</p> <p>14 to make some judgment about where it come</p> <p>15 from and whether it's just speculation or</p> <p>16 whether there's something to it. And --</p> <p>17 and I felt like there was something --</p> <p>18 something to that.</p> <p>19 Q I take it, though, that you're saying</p> <p>20 that you do not remember the name of the</p> <p>21 person who gave you that information.</p> <p>22 A I'm not saying that I don't remember the</p> <p>23 name of the person that may have said it,</p>
<p style="text-align: right;">Page 322</p> <p>1 Q Earlier today we discussed the removal of</p> <p>2 the confederate flag from the monument in</p> <p>3 front of the capitol --</p> <p>4 A Yeah.</p> <p>5 Q -- a couple of years ago. I believe that</p> <p>6 you testified that that action was</p> <p>7 connected to Google's opening of a</p> <p>8 facility in Alabama?</p> <p>9 A That's --</p> <p>10 Q Can you explain the basis for that</p> <p>11 statement?</p> <p>12 A I was informed -- I was -- I was informed</p> <p>13 that by people in the governmental</p> <p>14 process that that was the real reason.</p> <p>15 It didn't have anything to do with the --</p> <p>16 the killing in Charleston, South</p> <p>17 Carolina.</p> <p>18 Q Who gave you that information?</p> <p>19 A It was somebody in the economic</p> <p>20 development process. It was -- seems to</p> <p>21 me like Google was supposed to make an</p> <p>22 announcement the next week and there was</p> <p>23 some concern about that by Google and it</p>	<p style="text-align: right;">Page 324</p> <p>1 but it was provided to me in confidence</p> <p>2 and I -- I don't intend to reveal it.</p> <p>3 Whatever actions y'all need to take,</p> <p>4 y'all can take. I'm not going to violate</p> <p>5 that confidence.</p> <p>6 Q Okay. So just to be clear you're</p> <p>7 refusing to answer my question about the</p> <p>8 name of the person?</p> <p>9 A I'm refusing to give you the name to be</p> <p>10 clear, yeah. I'm not refusing to answer</p> <p>11 your question. I'm refusing to give you</p> <p>12 that name.</p> <p>13 Q Fair enough.</p> <p>14 A I don't want to lie under oath.</p> <p>15 Q In 2015, before the hours the ALEA</p> <p>16 offices were changed, do you recall</p> <p>17 Governor Bentley being involved in an</p> <p>18 initiative to raise taxes in Alabama?</p> <p>19 A Yes.</p> <p>20 Q Did you interact with the governor's</p> <p>21 office about that initiative?</p> <p>22 A I think somebody from the governor's</p> <p>23 office may have had a conversation with</p>

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1 me.

2 Q Did you support the proposal to raise

3 taxes?

4 A No. I -- I said -- I told them I would

5 support it if they would expand Medicaid,

6 but if they don't -- didn't expand

7 Medicaid I was not going to support any

8 additional funding. We had been fighting

9 and struggling for years and it was a

10 matter of life and death for a lot of

11 people and I said I'm not against the

12 taxes but unless you're going to find a

13 way to expand Medicaid, I'm not voting

14 for additional taxes.

15 Q You mentioned earlier in your testimony

16 that in your view expanding Medicaid for

17 African-Americans in Alabama; correct?

18 A It would have been good for

19 African-Americans, but it would have been

20 good for a whole lot of other people in

21 addition to African-Americans.

22 Q Would raising taxes have been good for

23 African-Americans in Alabama as well as

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1 other people in Alabama?

2 A I guess that depends on what kind of

3 taxes it was. If it was sales taxes,

4 then that might not have been good. If

5 it was some property taxes or some other

6 kind of taxes, it might have been. That

7 just depends on the kind of tax.

8 MR. NEIMAN: I have no

9 further questions. Thank you.

10 BY MR. ROSS:

11 Q I'm going to have probably a few more

12 questions for you, Senator, if that's

13 okay?

14 A Do I have a choice?

15 Q Well, let's take a --

16 A I really don't have a choice.

17 Q Let's take a quick break, just five

18 minute us and then we'll go back.

19 VIDEOGRAPHER: Going off

20 the record at 7:05.

21 (At which time, a break

22 was held.)

23 VIDEOGRAPHER: This begins

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1 disk seven. Going back on the

2 record at 7:07.

3 FURTHER EXAMINATION

4 BY MR. ROSS:

5 Q Senator Sanders, I just have a few

6 follow-up questions and I'm going to try

7 to be brief. When Ms. Messick handed you

8 a series of articles about alleged voter

9 fraud, did all of those articles involve

10 convictions?

11 A No.

12 Q Did some of them involve simply

13 allegations of what she said was voter

14 fraud?

15 A Yes.

16 Q Did she specify what kind of voter fraud

17 or do those articles always specify what

18 kind of voter fraud was alleged?

19 A She didn't specify but a lot of them was

20 about absentee voting rather than voting

21 at the poll.

22 Q Okay. Do you recall -- did all of them

23 involve voter impersonation where one

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1 person says that they are pretending to

2 be another person?

3 A I only recall one of them where there was

4 a voter impersonation.

5 Q Prior to seeing to seeing those articles,

6 did you have any personal knowledge about

7 these convictions?

8 A No.

9 Q Ms. Messick mentioned an incident in

10 which someone in Dothan was convicted for

11 voter fraud; is that correct? Do you

12 recall that article?

13 A Yes, I recall the article.

14 Q Do you recall if it took place in 2015?

15 A No, I -- I don't recall.

16 Q Let me look back at it, Senator. I

17 believe it's Defendant's --

18 A Okay. Here's one, Exhibit 4, I think.

19 Q 4? I probably skipped over it.

20 A Exhibit 4.

21 MR. ROSS: Do you know

22 which one was the Dothan one?

23 MS. MESSICK: I think

<p style="text-align: right;">Page 329</p> <p>1 you're talking about</p> <p>2 Defendant's 2 and 3.</p> <p>3 MR. ROSS: Sorry. I</p> <p>4 skipped over it.</p> <p>5 Q Can you take a look at Defendant's 2 for</p> <p>6 me, please, Senator.</p> <p>7 A Okay. Yes. Defendant 2 --</p> <p>8 Q Okay.</p> <p>9 A -- said was involved in voter fraud in</p> <p>10 the 2013 Dothan municipal election.</p> <p>11 Q Was that after the voter ID law passed,</p> <p>12 Senator?</p> <p>13 A Yes.</p> <p>14 Q Was there a voter identification law in</p> <p>15 place at that time?</p> <p>16 A I -- I -- I don't think that the voter ID</p> <p>17 had been implemented. Well, voter photo</p> <p>18 ID had been implemented. There was a</p> <p>19 voter ID law in place.</p> <p>20 Q Okay. Senator, do you know how the</p> <p>21 absentee voter ID requirement works in</p> <p>22 the Alabama's photo ID law?</p> <p>23 A Say what?</p>	<p style="text-align: right;">Page 331</p> <p>1 photocopy of a photo ID; is that correct?</p> <p>2 A That's correct.</p> <p>3 Q And given that, would it be possible for</p> <p>4 someone to get ahold of another person's</p> <p>5 photo ID and mail it in under that law?</p> <p>6 MS. MESSICK: Object to</p> <p>7 the form.</p> <p>8 A It's possible.</p> <p>9 Q Okay. Senator, Ms. Messick asked you --</p> <p>10 well, strike that.</p> <p>11 You mentioned earlier, Senator,</p> <p>12 about the poll tax, described it.</p> <p>13 A Yes.</p> <p>14 Q Do you recall if the poll tax expressly</p> <p>15 mentioned the race of the voter?</p> <p>16 A It absolutely did not. Neither poll tax</p> <p>17 or the literacy test mentioned race.</p> <p>18 Q And do you know whether courts ever found</p> <p>19 those laws to be intentionally</p> <p>20 discriminatory despite the fact that they</p> <p>21 did not expressly mention race?</p> <p>22 A Yes.</p> <p>23 Q Here in Alabama?</p>
<p style="text-align: right;">Page 330</p> <p>1 Q Do you know how the requirement for</p> <p>2 absentee voters works -- well, strike</p> <p>3 that.</p> <p>4 Is it your understanding that</p> <p>5 Alabama's photo ID law requires someone</p> <p>6 to show photo ID if they vote absentee?</p> <p>7 A Generally, yes.</p> <p>8 Q Okay. Senator, can you go to Defendant's</p> <p>9 19 and look at just item B which is at</p> <p>10 the very bottom of the first page.</p> <p>11 A Okay.</p> <p>12 Q Can you just review that provision there?</p> <p>13 A Yes. Item --</p> <p>14 Q B.</p> <p>15 A -- B?</p> <p>16 Q Yes, sir.</p> <p>17 A Voters voting on absentee ballot shall</p> <p>18 submit with the ballot a copy of one of</p> <p>19 the forms of identification listed in</p> <p>20 subsection A.</p> <p>21 Q So is it right when you're voting in</p> <p>22 absentee in Alabama under the photo ID</p> <p>23 law you're only required to send in a</p>	<p style="text-align: right;">Page 332</p> <p>1 A I don't know whether it was here in</p> <p>2 Alabama but the federal courts determined</p> <p>3 that they were intentional. I don't know</p> <p>4 whether it's an Alabama case or some</p> <p>5 other place.</p> <p>6 Q So it's possible, Senator, for a law to</p> <p>7 be passed with discriminatory intent even</p> <p>8 if the law does not expressly mention</p> <p>9 racial -- or race?</p> <p>10 MS. MESSICK: Object to</p> <p>11 the form.</p> <p>12 A It's not just possible, it's often done.</p> <p>13 Q Senator, you mentioned you were elected</p> <p>14 in 1983 after there was litigation under</p> <p>15 the Voting Rights Act; is that correct?</p> <p>16 A Yes.</p> <p>17 Q And do you recall who was in power who</p> <p>18 passed the reapportionment in the 1980s?</p> <p>19 A It was Democrat.</p> <p>20 Q Okay. So did Democrats pass laws in</p> <p>21 Alabama that were blocked under section</p> <p>22 5?</p> <p>23 A Yes.</p>

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1 Q Okay. Senator, we've been talking a lot
2 about sort of Alabama but we haven't
3 talked about sort of the demographics of
4 Alabama. Is it fair to say that Alabama
5 is about 25 to 35 percent black?
6 A Yes, about 26 -- 25 to 26 percent if I
7 recall.
8 Q So given that, African-Americans are a
9 minority; is that right?
10 A Yes.
11 Q So when Mr. Neiman was talking about the
12 same percentage of people in Alabama
13 voted for Senator -- or Secretary of
14 State Clinton this past election, does
15 that sort of match the number of
16 African-Americans there are in the state?
17 MS. MESSICK: Object to
18 the form.
19 A Well, the minority vote was more than
20 25 percent, but as I recall it might have
21 been 36 percent or 34 percent or
22 something like that.
23 Q Senator, you -- there was also talk about

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1 an African-American who was elected from
2 I believe Cullman County?
3 A Cullman County, yeah.
4 Q What was his name?
5 A Representative -- as well as I know him,
6 I can't pull it up.
7 Q It's okay, Senator. There was a
8 discussion about how he was defeated in
9 an election in 2010?
10 A Yes. I recall he went down -- I think he
11 was elected in 2006 and defeated in 2010.
12 Q Do you recall the race of the candidate
13 that defeated him in that election?
14 A He was white.
15 Q Senator, you also mentioned or you were
16 discussing Artur Davis and that he had
17 switched to becoming a Republican; is
18 that correct?
19 A Yes.
20 Q Do you know if he ever ran as a candidate
21 in Alabama as a Republican?
22 A Not that I know of. He ran for mayor but
23 mayors in Alabama are nonpartisan.

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1 Q Did he win that election? Well, mayor
2 for what city?
3 A Montgomery.
4 Q Did he win that election?
5 A No.
6 Q Is Montgomery a majority an
7 African-American city?
8 A Yes.
9 Q Senator, I'm going to show you a couple
10 of articles that I believe are
11 Plaintiff's 10 and 11.
12 I'm sorry. We'll just do
13 Plaintiff's 10. These articles are
14 largely the same, so we'll just do one of
15 them.
16 (Plaintiff's Exhibit 10
17 was marked for
18 identification.)
19 (At which time, the
20 witness reviews the
21 exhibit.)
22 A Okay.
23 Q Senator, I'm going to represent -- have

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1 you seen this article before today?
2 A No, I have not.
3 Q I'm going to represent to you this
4 article is from -- what's today's date --
5 yeah, today's date January 26th, 2017, it
6 is quoting Alabama Secretary of State
7 saying that he's not found any evidence
8 of voter fraud in Alabama. Is that a
9 fair representation of what this article
10 says?
11 MS. MESSICK: Object to
12 the form.
13 A Well, he says that he has not found any
14 evidence of voting irregularities and he
15 goes on to say, "We always look into
16 allegations of impropriety, election
17 fraud, voter registration fraud, any kind
18 of campaign finance, reform and
19 suggestion, campaign finance allegation
20 or fraudulent activity." And he says,
21 "We're confident the direction we're
22 going is where we need to be and we're
23 offering a safe, secure, and credible

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1 environment for all Alabamians when it
2 comes to the election process."
3 Q That's it, Senator.
4 Senator, Ms. Messick read you a list
5 of HBCUs earlier; do you recall that?
6 A Yes.
7 Q Do you know whether any of those HBCUs
8 issue photo IDs to students?
9 A No.
10 Q Do you know whether -- okay. Strike
11 that.
12 Do you -- is it that you don't know
13 whether HBCUs issue photo ID?
14 A I do not know whether they do or not.
15 Q Okay. Senator, do you know who Scott
16 Beason is?
17 A Yes.
18 Q Do you know whether there were
19 allegations that Senator Beason engaged
20 in intentional discrimination in 2010?
21 A Yes.
22 Q Can you tell me about those allegations?
23 MS. MESSICK: Object to

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1 the form.
2 A Yes. Senator Beason was caught on a tape
3 saying that if -- if you put gaming,
4 bingo on the ballot, then
5 African-Americans would come out in
6 droves and you don't want that to happen.
7 And so they ended up indicting a number
8 of people for various kinds of -- on
9 various kinds of criminal charges and all
10 of those who went to trial were found not
11 guilty.
12 Q And Senator Beason's -- the recording of
13 that was in connection with the attempt
14 to get the convictions; is that correct?
15 A Yes.
16 Q And were there other Republicans caught
17 on tape adopting the same scheme that
18 you're describing for Senator Beason?
19 A Yes. There were some -- some others. I
20 don't remember specifically which ones,
21 though.
22 Q Do you recall if it was the leadership of
23 the Republican party?

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1 A I don't recall.
2 Q Okay. Senator, you were also asked
3 about -- in Defendant's 1 about Democrats
4 requiring photo ID at the Democratic
5 National Convention; is that right?
6 A Yes.
7 Q And we talked about the kinds of people
8 who don't have photo ID earlier; is that
9 right?
10 A Yes.
11 Q And is it fair to say that you would
12 describe them as, you know, poor people,
13 fairly marginalized people in society; is
14 that right?
15 A Yes. Or young people or real old people.
16 Q Do you think people who are poor in the
17 way that you're describing that don't
18 have photo ID do they usually go to the
19 airport and fly somewhere?
20 MR. NEIMAN: Objection to
21 form.
22 A They do not usually go to the airport.
23 They do not usually drive. They do not

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1 usually even have an account often at the
2 bank and have that kind of transaction.
3 Q Do they have access to the Internet?
4 MS. MESSICK: Object to
5 the form.
6 MR. NEIMAN: Object to the
7 form.
8 A I would say most of them do not have
9 access to the Internet.
10 Q Do they go to the Democratic National
11 Convention?
12 MS. MESSICK: Objection.
13 MR. NEIMAN: Objection.
14 A No.
15 Q From Alabama?
16 A No.
17 Q Where was the Democratic National
18 Convention this year?
19 A It was in Philadelphia.
20 Q Senator, you talked a little bit about
21 how -- strike that.
22 In close elections could people
23 being turned away from the polls affect

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1 the outcome of the result?

2 A Absolutely.

3 MS. MESSICK: Object to

4 the form.

5 Q Because of the photo ID law?

6 MS. MESSICK: Object to

7 the form.

8 MR. NEIMAN: Object to the

9 form.

10 A Yes.

11 Q So just to make the record clear, is it

12 your testimony that the photo ID law

13 could turn people away in a close

14 election and therefore affect the outcome

15 of the election?

16 MS. MESSICK: Object to

17 the form.

18 MR. NEIMAN: Object to the

19 form. Speculation.

20 A It's my testimony that the photo ID law

21 will prevent many people from voting.

22 Q Just A few more questions. You mentioned

23 earlier that you were arrested around

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1 protest related to the confederate flag?

2 A Yes.

3 Q Why did you protest the confederate flag?

4 A Because the confederate flag initially

5 was a symbol for people fighting to

6 maintain slavery and then the confederate

7 flag was revived when civil rights came

8 sort of on the front burner, that it was

9 a symbol of -- of oppression for black

10 people and I -- I felt like we needed to

11 do everything we could to remove it from

12 public places. If people want to fly it,

13 they should fly it in private places

14 because symbols are very powerful because

15 people read into a symbol of what they

16 need to at the moment and -- and to me

17 that they were resisting voting rights.

18 They were resisting civil rights. They

19 were resisting human rights. Even though

20 they said, well, it's about -- it's about

21 our history.

22 Well, that history was at that time

23 about maintaining slavery and so I --

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1 I -- I'm against slavery now and I'm

2 against slavery for back at that time and

3 that's a symbol that I consider very

4 oppressive.

5 Q Thank you, Senator.

6 I'm going to hand you what I've

7 marked as exhibit -- Plaintiff's

8 Exhibit 11, which is actually from the

9 defendant's production. The Bates number

10 on it is GOV 19876.

11 (Defendant's Exhibit 11

12 was marked for

13 identification.)

14 Q The copy that I've given you

15 unfortunately it is cut off but I'll

16 represent to you that is the Bates

17 number. Will you review that?

18 A Yes.

19 Q And I'll also represent to you it comes

20 from the Secretary of State's

21 presentation that they were giving around

22 the state about how to vote under the

23 photo ID law.

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1 A Yes. And do you have a particular

2 question?

3 Q Can you look for me at .3, that last

4 sentence in this?

5 A Yes. It says, "A voter must sign a form

6 under penalty of perjury that they do not

7 currently possess any of the valid forms

8 of ID in order to obtain the free photo

9 ID."

10 Q So is that consistent with what your

11 understanding of how the photo ID law

12 worked?

13 A Yes.

14 Q Is it possible that other people may have

15 seen this presentation and understood the

16 photo ID law to work in that way?

17 MS. MESSICK: Object to

18 the form.

19 A Well, I -- I -- I want -- I perhaps

20 should have looked at the law more

21 careful because if it requires you to --

22 to -- to sign under oath, then of course

23 you could end up being prosecuted. I --

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1 I'd like to -- I -- I just don't think --
2 think I was so far off on that, but...
3 Q But reading this here and as I said I
4 will represent that it's from the
5 Secretary of State's Office, is it true
6 that the Secretary of State themselves
7 were interpreting the photo ID law the
8 way you described?
9 MR. NEIMAN: Object to the
10 form of the question.
11 MS. MESSICK: Object to
12 the form of the question.
13 A It seems to me they were interpreting the
14 same way that I was interpreting.
15 Q Thank you, Senator. I am going to hand
16 you Plaintiff's Exhibit 12 which I will
17 represent you is the application for an
18 Alabama free photo ID card. It is double
19 sided.
20 (Plaintiff's Exhibit 12
21 was marked for
22 identification.)
23 Q If you can just view both sides of that

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1 for me, please.
2 (At which time, the
3 witness reviews the
4 exhibit.)
5 A Okay.
6 Q Okay. So, Senator, I'm just going to
7 direct you back to Defendant's 20 on page
8 I there. If you'll just put those two
9 documents side by side for me.
10 A Defendant's 20?
11 Q Oh, I have it as 20.
12 MS. MESSICK: The statue.
13 MR. ROSS: The statue.
14 MS. MESSICK: It's 19.
15 MR. ROSS: Oh, I may have
16 misnumbered mine.
17 A Okay.
18 Q Okay. So looking at Defendant's 19 and
19 item I on page 3, does it say the
20 application for the voter ID card shall
21 be signed and sworn to by the applicant
22 and any falsification or fraud in making
23 of the application shall constitute a

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1 class C felony?
2 A Yes.
3 Q And looking again at Plaintiff's 12 --
4 looking at Plaintiff's 12 at the
5 instructions on the application form,
6 does it say, the third paragraph down,
7 that you can only receive a free Alabama
8 photo voter identification card if you
9 are registered to vote in Alabama and do
10 not have any of the photo ID listed out
11 there?
12 A Yes.
13 Q Okay. So -- and then on the other side
14 of that same application, does it also
15 require you to swear under penalty of
16 perjury -- excuse me -- not under penalty
17 of perjury but to swear or affirm that
18 the information provided in the
19 application is true and correct?
20 MS. MESSICK: Object to
21 the form.
22 Q There at the bottom?
23 A Yes.

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1 Q Is it possible that a layperson or
2 anyone, really, could read this and
3 understand that the application was
4 inclusive of both that -- that direction
5 that you can only receive a free photo ID
6 if you don't have any other forms of ID?
7 MS. MESSICK: Object to
8 the form.
9 A Well, it's not only possible for a
10 layperson, it's possible for a lawyer.
11 Q Thank you.
12 A It was possible for me.
13 Q Thank you, Senator. Do you know whether
14 public housing photo IDs are acceptable
15 for voting under the Alabama?
16 MS. MESSICK: Object to
17 the form.
18 A I don't see anything in here that says it
19 would be.
20 Q Do you know if African-Americans
21 disproportionately live in public housing
22 in Alabama?
23 A Yes.

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1 Q Yes, African-Americans do
2 disproportionately live in public housing
3 here?
4 A That's correct.
5 Q Okay. Senator, have you ever heard of a
6 case called Harris v. Siegelman?
7 A The name rings a bell, but I can't pull
8 up what it's about.
9 Q Senator, do you recall if Alabama has
10 ever been sued for not hiring enough
11 African-American poll workers?
12 A Yes.
13 Q Okay. Do you recall if Alabama, either
14 the state or counties in Alabama, have
15 ever been sued for white poll workers
16 harassing or discriminating against
17 African-American voters?
18 A Yes. It comes back to me. Siegelman was
19 secretary of state at that time. He
20 later became governor but I think he was
21 secretary of state at that time.
22 Q Okay. And he was -- it's your
23 understanding is that he was sued for

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1 not -- him as well as other officials for
2 not having enough African-American poll
3 workers; is that correct?
4 A Yes.
5 MR. NEIMAN: Object to the
6 form.
7 Q Okay. Is it possible there was
8 litigation around -- well, strike that.
9 You mentioned earlier and discussed
10 with Mr. Neiman that people who have
11 felony convictions may be told one thing
12 depending on which registrar they go to
13 whether they're eligible to vote; is that
14 correct?
15 A Yes.
16 Q Okay. Do you know, is it possible that
17 there is litigation around that issue in
18 the past?
19 MR. NEIMAN: Object to the
20 form.
21 MS. MESSICK: Object to
22 the form.
23 A I do believe there was some litigation

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1 around that issue.
2 Q Okay. Just a couple of more things,
3 Senator. So if Alabama allowed people
4 who didn't have photo ID to sign an
5 affidavit saying that they had some
6 impediment to vote but still allowed them
7 to vote a regular ballot, do you think
8 that would be at least one potential way
9 of solving the problems with the voter ID
10 law?
11 MR. NEIMAN: Object to the
12 form.
13 MS. MESSICK: Object to
14 the form.
15 A I don't understand.
16 Q Well, let me repeat. So, Senator, I'll
17 represent to you that in some states if
18 you go to the polls and do not have the
19 photo ID required to vote you can sign an
20 affidavit with your name and maybe some
21 additional information that allows you to
22 vote a regular ballot without having to
23 go through any additional hoops. Okay?

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1 A Yes. I think that that would help some.
2 I don't think it would completely remedy
3 the problem.
4 Q But it may help for some voters?
5 A It would help.
6 MS. MESSICK: Object to
7 the form.
8 MR. NEIMAN: Object to the
9 form.
10 Q Thank you, Senator.
11 Senator, when someone supports a
12 bill in the Alabama legislature, do you
13 believe that -- well, the statements made
14 by the sponsor of the bill does that
15 often inform why other legislators might
16 vote for it?
17 MS. MESSICK: Object to
18 the form.
19 A I believe that when -- when the sponsor
20 of a bill says what it's in it and say
21 why it's important, I think that that
22 holds special significance because bills
23 can be interpreted all kinds of way, so I

<p style="text-align: right;">Page 353</p> <p>1 think what a sponsor says carries</p> <p>2 considerable weight. But sometimes</p> <p>3 sponsors do mislead but it's significant.</p> <p>4 MR. ROSS: Okay. Thank</p> <p>5 you, Senator. That's it for</p> <p>6 the plaintiffs.</p> <p>7 MS. MESSICK: Senator</p> <p>8 Sanders, do you want to be done</p> <p>9 or will you consent to a few</p> <p>10 more questions.</p> <p>11 THE WITNESS: Do I have a</p> <p>12 choice?</p> <p>13 MS. MESSICK: You</p> <p>14 absolutely have a choice we are</p> <p>15 out of time. And I'm not going</p> <p>16 to ask you any further</p> <p>17 questions without your consent.</p> <p>18 We've been here for a long time</p> <p>19 so if you want to say we're</p> <p>20 done, you can say we're done.</p> <p>21 MR. NEIMAN: I'll pledge</p> <p>22 that I'm not going to ask</p> <p>23 anymore questions.</p>	<p style="text-align: right;">Page 355</p> <p>1 Exhibit 11 and 12 and Defendant's Exhibit</p> <p>2 19 with Mr. Ross. Those were the</p> <p>3 documents reflecting the photo ID law</p> <p>4 that's being challenged, the application</p> <p>5 for the free ID, and the PowerPoint</p> <p>6 video. Did you see anything in those</p> <p>7 documents that said that it was illegal</p> <p>8 for a person to obtain a driver's license</p> <p>9 or other photo ID that is acceptable to</p> <p>10 vote in Alabama at a point in time after</p> <p>11 they have received the free photo ID?</p> <p>12 A Well, what I saw was that it said that</p> <p>13 you must swear that you didn't and you</p> <p>14 could -- if the information is incorrect,</p> <p>15 you could be subject to a class C felony.</p> <p>16 Q Didn't what?</p> <p>17 A I'm sorry?</p> <p>18 Q Didn't what? That you didn't what? You</p> <p>19 said that you had to swear that you</p> <p>20 didn't, didn't what?</p> <p>21 A That you didn't have any other photo ID.</p> <p>22 Q But that's at the time that you get the</p> <p>23 free photo ID?</p>
<p style="text-align: right;">Page 354</p> <p>1 (Off-the-record</p> <p>2 discussion)</p> <p>3 MS. MESSICK: I only have</p> <p>4 two questions.</p> <p>5 THE WITNESS: Go ahead.</p> <p>6 Anytime a lawyer says I only</p> <p>7 have one more question. I only</p> <p>8 have two questions, it never</p> <p>9 means one or two. Maybe we're</p> <p>10 going to make history right</p> <p>11 here. Let's see.</p> <p>12 FURTHER EXAMINATION</p> <p>13 BY MS. MESSICK:</p> <p>14 Q Senator, after the recorded comments that</p> <p>15 you just discussed in your testimony in</p> <p>16 response to questions by Mr. Ross?</p> <p>17 A I -- I recall the Senate pro tem</p> <p>18 promising that he was going to be</p> <p>19 stripped and -- and I don't -- I know he</p> <p>20 made a promise but I don't recall whether</p> <p>21 he was stripped of that position or not.</p> <p>22 Q Thank you.</p> <p>23 You just looked at Plaintiff's</p>	<p style="text-align: right;">Page 356</p> <p>1 A That's right.</p> <p>2 MS. MESSICK: Thank you.</p> <p>3 Thank you for your time today,</p> <p>4 Senator?</p> <p>5 VIDEOGRAPHER: This</p> <p>6 concludes the deposition.</p> <p>7 Going off the record at 7:41.</p> <p>8 (At which time, the video</p> <p>9 deposition concluded at</p> <p>10 approximately 7:45 p.m.,</p> <p>11 Central.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

<div>1 REPORTER'S CERTIFICATE</div> <div>2</div> <div>3 STATE OF ALABAMA,</div> <div>4 AUTAUGA COUNTY,</div> <div>5</div> <div>6 I, Shannon P. Yost, Certified Shorthand</div> <div>7 Reporter and Commissioner for the State of</div> <div>8 Alabama at Large, do certify that I reported</div> <div>9 the video deposition of the aforementioned</div> <div>10 deponent, who was first duly sworn by me to</div> <div>11 speak the truth, the whole truth, and</div> <div>12 nothing but the truth.</div> <div>13</div> <div>14 The foregoing computer-printed pages</div> <div>15 contains a true and correct transcript of</div> <div>16 the examination of said witness by counsel</div> <div>17 for the parties set out herein. The reading</div> <div>18 and signing of same is hereby waived.</div> <div>19</div> <div>20 I further certify that I am neither of</div> <div>21 kin nor of counsel to the parties to said</div> <div>22 cause, nor in any manner interested in the</div> <div>23 results thereof.</div>	
<div>1</div> <div>2 This 3rd day of February, 2017.</div> <div>3</div> <div>4</div> <div>5</div> <div>6 /s/Shannon P. Yost</div> <div>7 <u>Shannon P. Yost,</u></div> <div>8 Certified Shorthand Reporter</div> <div>9 and Commissioner for the</div> <div>10 State of Alabama at Large</div> <div>11 ACCR #: 158</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div>	